

# EXHIBIT L

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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK  
Civil Action: 1:20-cv-00221  
- - - - -x  
MARJORIE PHILLIPS,  
Plaintiff,  
-against-  
THE FASHION INSTITUTE OF TECHNOLOGY, MARY  
DAVIS and MARILYN BARTON,  
Defendants.

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September 10, 2021  
10:02 a.m.

- Volume II -

ZOOM DEPOSITION of MARJORIE PHILLIPS,  
the Plaintiff in the above-entitled  
action, located in New York, New York,  
taken before Dawn Matera, a Shorthand  
Reporter and Notary Public of the State  
of New York.

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| <p style="text-align: right;">Page 286</p> <p>1<br/>2 APPEARANCES:<br/>3<br/>4 THE COCHRAN FIRM<br/>5 Attorneys for Plaintiff<br/>6 55 Broadway, 23rd Floor<br/>7 New York, New York 10006<br/>8 BY: DEREK SELLS, ESQ.<br/>9 BY: MINA MALIK, ESQ.<br/>10<br/>11 NIXON PEABODY LLP<br/>12 Attorneys for Defendant FIT<br/>13 50 Jericho Quadrangle<br/>14 Suite 300<br/>15 Jericho, New York 11753-2728<br/>16 BY: DAVID A. TAUSTER, ESQ.<br/>17 dtauster@nixonpeabody.com<br/>18<br/>19 BY: ROSE A. NANKERVIS, ESQ.<br/>20 rnankervis@nixonpeabody.com<br/>21<br/>22 SARETSKY KATZ &amp; DRANOFF LLP<br/>23 Attorneys for Mary Davis<br/>24 475 Park Avenue South<br/>25 26th Floor<br/>New York New York 10016<br/>BY: ERIC DRANOFF, ESQ.<br/>edranoff@skdillp.com</p> | <p style="text-align: right;">Page 288</p> <p>1 MARJORIE PHILLIPS<br/>2 MARJORIE PHILLIPS, the<br/>3 Plaintiff herein, having previously been<br/>4 duly sworn by the Notary Public, was<br/>5 examined and testified as follows:<br/>6 CONTINUED EXAMINATION<br/>7 BY MR. TAUSTER:<br/>8 Q. Ms. Phillips, since we<br/>9 concluded yesterday, have you reviewed<br/>10 any documents?<br/>11 A. No. I didn't have the energy,<br/>12 no.<br/>13 Q. Do you have any documents in<br/>14 front of you right now?<br/>15 A. I do not.<br/>16 Q. Other than the Zoom window, do<br/>17 you have any windows open on your<br/>18 desktop?<br/>19 A. I do not.<br/>20 Q. Is there anybody else in the<br/>21 room with you?<br/>22 A. No.<br/>23 Q. Is there anybody else in your<br/>24 apartment today?<br/>25 A. No.</p>  |
| <p style="text-align: right;">Page 287</p> <p>1<br/>2 APPEARANCES(Continued):<br/>3<br/>4 MENKEN SIMPSON &amp; ROZGER LLP<br/>5 Attorneys for Marilyn Barton<br/>6 80 Pine Street<br/>7 33rd Floor<br/>8 New York, New York 10005<br/>9<br/>10 BY: BRUCE MENKEN, ESQ.<br/>11 bmenken@nyemployeeelaw.com<br/>12<br/>13 Also Present:<br/>14 Craig Jones, Concierge<br/>15<br/>16<br/>17 * * *<br/>18<br/>19<br/>20<br/>21<br/>22<br/>23<br/>24<br/>25</p>  | <p style="text-align: right;">Page 289</p> <p>1 MARJORIE PHILLIPS<br/>2 MR. TAUSTER: At this stage,<br/>3 subject to any need for cross or<br/>4 anything of that sort, I am going<br/>5 to -- FIT has no further questions at<br/>6 this time.<br/>7 THE WITNESS: I am going to turn<br/>8 off my cell phone.<br/>9 MR. TAUSTER: Yes.<br/>10 THE WITNESS: Done.<br/>11 EXAMINATION BY MR. DRANOFF:<br/>12 Q. Good morning, Ms. Davis, my<br/>13 name is Eric Dranoff. I am representing<br/>14 Mary Davis. Feel free to call me Eric.<br/>15 I am feeling very casual today, as you<br/>16 can see.<br/>17 I am not going to remind you of<br/>18 the instructions that Mr. Tauster gave<br/>19 yesterday morning. We'll just proceed so<br/>20 we can move things along, okay?<br/>21 A. You called me Ms. Davis. My<br/>22 name is Marjorie Phillips.<br/>23 Q. I said I represented Ms. Davis.<br/>24 I apologize.<br/>25 A. It's okay. That's all right.</p> |

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| <p style="text-align: right;">Page 290</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Yesterday you were talking</p> <p>3 about a little bit about physical therapy</p> <p>4 that you went through. And if I am</p> <p>5 correct you said you stopped physical</p> <p>6 therapy because of the onset of COVID; is</p> <p>7 that correct?</p> <p>8 A. Yes.</p> <p>9 Q. Have you seen your physical</p> <p>10 therapist records?</p> <p>11 A. No, I have not.</p> <p>12 Q. Just for the sake of perhaps</p> <p>13 jolting your memory a little bit. Is it</p> <p>14 true that you last were at a physical</p> <p>15 therapist in November of 2019?</p> <p>16 A. Could be.</p> <p>17 Q. So it may not have been stopped</p> <p>18 because of COVID; is that accurate?</p> <p>19 A. It could be, yeah.</p> <p>20 Q. Now, the other thing I ask is</p> <p>21 whether or not you had missed any</p> <p>22 physical therapy sessions that caused the</p> <p>23 therapist to terminate your treatment, do</p> <p>24 you have any knowledge of that?</p> <p>25 A. No, I do not. I did miss some</p> | <p style="text-align: right;">Page 292</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. No.</p> <p>3 Q. Okay. And in your history with</p> <p>4 the physical therapist, you informed the</p> <p>5 therapist that you've had a history of a</p> <p>6 left leg injury; is that correct?</p> <p>7 A. Not a history, that was the</p> <p>8 reason why I was there. It wasn't a</p> <p>9 history.</p> <p>10 Q. So you --</p> <p>11 A. The reason I went there was</p> <p>12 because of that. It wasn't a history.</p> <p>13 Q. Okay. So you had an injury to</p> <p>14 your leg?</p> <p>15 A. It wasn't an injury. It just</p> <p>16 came about. Like no injury. It just</p> <p>17 came about.</p> <p>18 Q. The apartment that you live in,</p> <p>19 was that a walk-up apartment?</p> <p>20 A. No, it's --</p> <p>21 Q. It's elevator?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Are you still suffering</p> <p>24 any symptoms from your leg issue to this</p> <p>25 day?</p>   |
| <p style="text-align: right;">Page 291</p> <p>1 MARJORIE PHILLIPS</p> <p>2 sessions, yes, that I know for sure.</p> <p>3 Q. Do you recall that you missed</p> <p>4 three consecutive sessions?</p> <p>5 A. Possibly, yes.</p> <p>6 Q. Okay. And as a result of</p> <p>7 missing those three consecutive sessions,</p> <p>8 the therapist terminated treatment?</p> <p>9 A. That I wasn't aware of, no,</p> <p>10 because I did go back.</p> <p>11 Q. And do you recall any diagnosis</p> <p>12 that the therapist gave for your</p> <p>13 condition?</p> <p>14 A. No, I do not.</p> <p>15 Q. Okay. Would it refresh your</p> <p>16 recollection if you were diagnosed with</p> <p>17 hamstring tendonitis?</p> <p>18 A. Yes.</p> <p>19 Q. So you were diagnosed with</p> <p>20 hamstring tendonitis, correct?</p> <p>21 A. Yes, that sounds right.</p> <p>22 Q. Did any medical practitioner at</p> <p>23 all attribute your hamstring tendonitis</p> <p>24 to any of the issues or complaints you</p> <p>25 had concerning your experience at FIT?</p>                            | <p style="text-align: right;">Page 293</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I am not, no.</p> <p>3 Q. Now, I want to talk about the</p> <p>4 upgrade a little bit that we were</p> <p>5 referring to. Was that to be a new</p> <p>6 position created for you?</p> <p>7 A. Yes.</p> <p>8 Q. Do you have any understanding,</p> <p>9 as far as the collective bargaining</p> <p>10 agreement is concerned, whether or not</p> <p>11 there are any procedures that have to be</p> <p>12 followed before a new position may be</p> <p>13 created?</p> <p>14 A. Generally, generally, yes.</p> <p>15 Q. You have a general knowledge</p> <p>16 of, correct?</p> <p>17 A. General.</p> <p>18 Q. Okay. Can you tell me what</p> <p>19 your general knowledge is, please?</p> <p>20 A. My general knowledge is that an</p> <p>21 upgrade -- one can only receive an</p> <p>22 upgrade when you're doing more than</p> <p>23 you've been doing. That there is an</p> <p>24 agreement between the supervisor and</p> <p>25 the -- it could be the more the</p> |

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| <p style="text-align: right;">Page 294</p> <p>1 MARJORIE PHILLIPS</p> <p>2 supervisor wants to give you. You have</p> <p>3 been doing more and it's being</p> <p>4 acknowledged.</p> <p>5 So when a supervisor has</p> <p>6 agreed, you can go to the supervisor, the</p> <p>7 supervisor can come to you, whoever, and</p> <p>8 that the upgrade is done, as I mentioned</p> <p>9 yesterday or can be done solely by the</p> <p>10 superstructure.</p> <p>11 As I mentioned yesterday, the</p> <p>12 last time I got one, was a discussion</p> <p>13 between supervisor and myself. One or</p> <p>14 two discussions. He went, he made it</p> <p>15 happen, came back to me. One time he</p> <p>16 talked about the title. The new title.</p> <p>17 And we agreed upon a title. He made it</p> <p>18 happen. So once we agreed, he made it</p> <p>19 happen.</p> <p>20 Q. Okay. Now, you said that there</p> <p>21 are times when the superstructures can,</p> <p>22 on their own, do an upgrade and that</p> <p>23 would include, to your understanding,</p> <p>24 that a supervisor can unilaterally, with</p> <p>25 you, increase your salary?</p> | <p style="text-align: right;">Page 296</p> <p>1 MARJORIE PHILLIPS</p> <p>2 unclear about is you're saying that if</p> <p>3 the supervisor doesn't want it to happen</p> <p>4 it goes no further. But if a supervisor</p> <p>5 does want it to happen, I am asking if</p> <p>6 there are procedures that you are aware</p> <p>7 of under the collective bargaining</p> <p>8 agreement or any policy or agreement,</p> <p>9 that had to be followed before those</p> <p>10 upgrades can actually come into effect?</p> <p>11 A. Yes.</p> <p>12 Q. Do you have any awareness of,</p> <p>13 if we assume a supervisor wanted an</p> <p>14 upgrade to occur, what those procedures</p> <p>15 would be?</p> <p>16 A. I cannot state that</p> <p>17 definitively, no.</p> <p>18 Q. Okay. And in your prior</p> <p>19 answer, you referred to there being some</p> <p>20 paperwork that has to be done. Can you</p> <p>21 describe for me a little bit what that</p> <p>22 paperwork is and what the processes are</p> <p>23 for that paperwork?</p> <p>24 A. Honestly, I cannot, because</p> <p>25 it's been so long since I've been in the</p> |
| <p style="text-align: right;">Page 295</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Correct, right.</p> <p>3 Q. Are there situations that</p> <p>4 you're aware of where a supervisor</p> <p>5 cannot, by themselves, make the</p> <p>6 determination to do an upgrade?</p> <p>7 A. No. The whole point of an</p> <p>8 upgrade in normal everyday terms is you</p> <p>9 ask for a promotion, you ask for a raise.</p> <p>10 Anyone, anywhere. You ask for a</p> <p>11 promotion. You ask for a raise.</p> <p>12 Supervisor either says yes or no and</p> <p>13 gives you reasons. But if they agree</p> <p>14 that it's going to be done, then the</p> <p>15 supervisor makes it happen.</p> <p>16 Now, at FIT there is more</p> <p>17 involved, there is paperwork involved.</p> <p>18 But if the supervisor doesn't want for it</p> <p>19 to happen, it doesn't go any further, the</p> <p>20 discussion doesn't go any further.</p> <p>21 So I am not aware of the</p> <p>22 supervisor wanting to give an upgrade and</p> <p>23 it not happening. I am not aware of</p> <p>24 that.</p> <p>25 Q. But one thing I am a little</p>                         | <p style="text-align: right;">Page 297</p> <p>1 MARJORIE PHILLIPS</p> <p>2 School of Graduate Studies working under</p> <p>3 Mary Davis, that there has been no</p> <p>4 promotion, no upgrade, no anything. It's</p> <p>5 just been such a long time that I cannot</p> <p>6 describe it to you, no.</p> <p>7 Q. You're still in the School of</p> <p>8 Graduate Studies, correct?</p> <p>9 A. Correct.</p> <p>10 Q. Working, okay. Am I to</p> <p>11 understand then that there are different</p> <p>12 procedures for upgrades, depending on</p> <p>13 where in the School of Graduate Studies</p> <p>14 you were actually working?</p> <p>15 A. Not to my knowledge. But</p> <p>16 that's possible.</p> <p>17 Q. Okay. Have you at any time</p> <p>18 reviewed the collective bargaining</p> <p>19 agreement with respect to upgrades,</p> <p>20 reclassifications, new jobs, any of that</p> <p>21 subject matter?</p> <p>22 A. Not recently. Not in a long</p> <p>23 time.</p> <p>24 Q. When was the last time you</p> <p>25 think you might have reviewed the CBA for</p>  |

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| <p style="text-align: right;">Page 298</p> <p>1 MARJORIE PHILLIPS</p> <p>2 any reason?</p> <p>3 A. For any reason, about a</p> <p>4 year-and-a-half ago. Less than two years</p> <p>5 ago.</p> <p>6 Q. Okay. And what was the reason</p> <p>7 for you reviewing the CBA, meaning</p> <p>8 collective bargaining of course?</p> <p>9 A. The reason I looked at was</p> <p>10 because I wanted to take -- I was advised</p> <p>11 that I should take a leave and I wanted</p> <p>12 to know, both my attorney and I, wanted</p> <p>13 to know what was in the collective</p> <p>14 bargaining agreement with regard to</p> <p>15 medical leave or leave in general.</p> <p>16 Q. And when you say your attorney,</p> <p>17 are you talking about Ms. Charles?</p> <p>18 A. Yes.</p> <p>19 Q. So with respect to the</p> <p>20 collective bargaining agreement, I am</p> <p>21 going to ask you if you are familiar with</p> <p>22 the concept of posting of positions; have</p> <p>23 you ever heard that concept?</p> <p>24 A. Of course.</p> <p>25 Q. Can you explain to me what your</p>   | <p style="text-align: right;">Page 300</p> <p>1 MARJORIE PHILLIPS</p> <p>2 the collective bargaining agreement?</p> <p>3 A. I can't say for sure.</p> <p>4 Q. Excuse me?</p> <p>5 A. I cannot say for sure.</p> <p>6 Q. Can you tell me what your</p> <p>7 understanding of a new position is?</p> <p>8 A. A new position would be one</p> <p>9 that did not exist, had not existed</p> <p>10 before. That's my understanding.</p> <p>11 Q. And if I am repetitive forgive</p> <p>12 me, but I just want to ask if you are</p> <p>13 aware of any written procedures at FIT</p> <p>14 with respect to the process of an upgrade</p> <p>15 or an increase in salary?</p> <p>16 A. Can you repeat the question?</p> <p>17 Q. Sure.</p> <p>18 MR. DRANOFF: Ms. Matera, can</p> <p>19 you read that question back, please.</p> <p>20 (The record was read as follows:</p> <p>21 "Question: And if I am</p> <p>22 repetitive forgive me, but I just want</p> <p>23 to ask if you are aware of any written</p> <p>24 procedures at FIT with respect to the</p> <p>25 process of an upgrade or an increase</p> |
| <p style="text-align: right;">Page 299</p> <p>1 MARJORIE PHILLIPS</p> <p>2 understanding is of posting of a</p> <p>3 position?</p> <p>4 A. Any time a position is vacant,</p> <p>5 in layman's terms, in the way it's</p> <p>6 handled now -- I can't say how it's</p> <p>7 handled now, but when there is a position</p> <p>8 that's vacant, the position is posted and</p> <p>9 it first goes out to the -- internally,</p> <p>10 you know, to the employees of FIT. Used</p> <p>11 to be posted so that we can see it,</p> <p>12 electronically posted and physically</p> <p>13 posted. Now everything is online</p> <p>14 electronically. And if you're interested</p> <p>15 to a position, then you apply to HR for</p> <p>16 that position.</p> <p>17 Now everything, as I mentioned,</p> <p>18 is electronic. So after a certain number</p> <p>19 of days or weeks, whatever their</p> <p>20 guidelines are, when it's not filled</p> <p>21 internally, then it goes out externally</p> <p>22 to the general public.</p> <p>23 Q. And would the same be true of a</p> <p>24 new position, would that have to be</p> <p>25 posted, based on your understanding of</p> | <p style="text-align: right;">Page 301</p> <p>1 MARJORIE PHILLIPS</p> <p>2 in salary?")</p> <p>3 MR. SELLS: Eric, just to be</p> <p>4 clear, are you asking besides what</p> <p>5 Ms. Phillips just answered regarding</p> <p>6 the collective bargaining agreement?</p> <p>7 MR. DRANOFF: I am asking about</p> <p>8 any procedure, Derek, at all. Are you</p> <p>9 aware of any written procedures</p> <p>10 whatsoever.</p> <p>11 MR. SELLS: Written, all right.</p> <p>12 MR. DRANOFF: Concerning -- I</p> <p>13 will ask you first with respect to an</p> <p>14 upgrade. Derek, I thought you were</p> <p>15 going to object because I was</p> <p>16 compounding my question. So I am</p> <p>17 going to ask one at a time.</p> <p>18 MR. SELLS: I just want to get</p> <p>19 clarity.</p> <p>20 MR. DRANOFF: I am still 62</p> <p>21 years old trying to get clarity, too,</p> <p>22 on many things.</p> <p>23 Q. In any event, Ms. Phillips, as</p> <p>24 far as written procedures, it could be</p> <p>25 the CBA or anything that you're aware of</p>  |

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| <p style="text-align: right;">Page 302</p> <p>1 MARJORIE PHILLIPS</p> <p>2 that is in writing that would govern the</p> <p>3 process of an upgrade?</p> <p>4 A. I am aware, yes, that there are</p> <p>5 written procedures. Specifically, no.</p> <p>6 But I am aware, yes.</p> <p>7 Q. So as you sit here today,</p> <p>8 you're unable to identify what those</p> <p>9 written procedures are?</p> <p>10 A. Correct.</p> <p>11 Q. Now, let's talk about then the</p> <p>12 salary increases. Are you aware of any</p> <p>13 written procedures at all within FIT, and</p> <p>14 it could be the CBA or anything else,</p> <p>15 that govern salary increases?</p> <p>16 A. I am aware that there are.</p> <p>17 Specifically, I cannot tell you what they</p> <p>18 are. But, yes, I am aware.</p> <p>19 Q. Okay. So again, as you sit</p> <p>20 here today, you are not aware of any such</p> <p>21 written documents, correct?</p> <p>22 A. I am aware, but I cannot tell</p> <p>23 you what they are.</p> <p>24 Q. Okay. So bring it full circle,</p> <p>25 you are aware that there are written</p> | <p style="text-align: right;">Page 304</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. No, I have not.</p> <p>3 Q. When is the last time, if ever,</p> <p>4 that you reviewed the nondiscrimination</p> <p>5 and antiharassment policy?</p> <p>6 A. I never did. I wasn't aware</p> <p>7 that it existed.</p> <p>8 Q. Okay. So to this very day, you</p> <p>9 have not ever reviewed the</p> <p>10 nondiscrimination and antiharassment</p> <p>11 policy?</p> <p>12 A. No.</p> <p>13 Q. Have you had any discussions</p> <p>14 with anybody about the content of the</p> <p>15 nondiscrimination and antiharassment</p> <p>16 policy, except counsel, of course?</p> <p>17 A. I have not.</p> <p>18 Q. Are you aware of whether or not</p> <p>19 the antidiscrimination and harassment</p> <p>20 policy contains provisions with respect</p> <p>21 to now investigations of allegations of</p> <p>22 discrimination are conducted?</p> <p>23 A. Can you repeat your question?</p> <p>24 Q. Let me rephrase that.</p> <p>25 Are you aware of any source</p> |
| <p style="text-align: right;">Page 303</p> <p>1 MARJORIE PHILLIPS</p> <p>2 documents that embody the procedures for</p> <p>3 getting an upgrade, but as you sit here</p> <p>4 today you're unable to identify those</p> <p>5 documents, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And again, with respect to</p> <p>8 salary upgrades, you're aware that there</p> <p>9 are written documents that deal with the</p> <p>10 issue of getting salary increases, but</p> <p>11 you're unable to identify what those</p> <p>12 specific written documents are as you sit</p> <p>13 here today, correct?</p> <p>14 A. Yes.</p> <p>15 Q. Now, I believe yesterday</p> <p>16 Mr. Tauster might have referred to the</p> <p>17 nondiscrimination and antiharassment</p> <p>18 policy; do you recall that?</p> <p>19 A. Yes, I do.</p> <p>20 Q. And have you recently</p> <p>21 reviewed -- I will not say recently. But</p> <p>22 within the past 30 days, have you</p> <p>23 reviewed the antiharassment --</p> <p>24 nondiscrimination and antiharassment</p> <p>25 policy?</p>                                      | <p style="text-align: right;">Page 305</p> <p>1 MARJORIE PHILLIPS</p> <p>2 whatsoever that the nondiscrimination and</p> <p>3 antiharassment policy contains specific</p> <p>4 provisions about how an allegation of</p> <p>5 discrimination is investigated?</p> <p>6 MR. SELLS: That question would</p> <p>7 call -- would also include attorneys.</p> <p>8 So if you can --</p> <p>9 MR. DRANOFF: Except any</p> <p>10 attorneys. You can have that as an</p> <p>11 ongoing given the questions that I</p> <p>12 have, if attorney communications would</p> <p>13 be implicated.</p> <p>14 Q. Do you have the question now,</p> <p>15 Ms. Phillips?</p> <p>16 A. I believe so. And I would say</p> <p>17 loosely, yes.</p> <p>18 Q. Loosely?</p> <p>19 A. Yes.</p> <p>20 Q. What do you mean by loosely?</p> <p>21 A. What I mean is that it is</p> <p>22 possible that that is something, this is</p> <p>23 something that Deliwe may have talked</p> <p>24 about a little bit with the Affirmative</p> <p>25 Action.</p>                     |



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| <p style="text-align: right;">Page 306</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. As far as nondiscrimination and</p> <p>3 antiharassment policy, are you aware from</p> <p>4 any source as to whether it addresses who</p> <p>5 specifically at FIT can actually</p> <p>6 administer and make decisions concerning</p> <p>7 disciplinary actions?</p> <p>8 A. I can't say with any certainty,</p> <p>9 no.</p> <p>10 Q. Do you have any understanding</p> <p>11 of whether or not Mary Davis on her own</p> <p>12 can administer any discipline to an</p> <p>13 employee that's a member of the union?</p> <p>14 A. No, not to my knowledge.</p> <p>15 Q. So she can't, herself,</p> <p>16 discipline anybody, correct?</p> <p>17 MR. SELLS: Objection.</p> <p>18 Objection. Objection.</p> <p>19 MR. DRANOFF: What's the</p> <p>20 objection, Derek? We can have a</p> <p>21 conversation.</p> <p>22 MR. SELLS: Sure. The point is</p> <p>23 that Ms. Phillips already indicated</p> <p>24 that she's not aware of any of the</p> <p>25 policies and now you're trying to put</p>  | <p style="text-align: right;">Page 308</p> <p>1 MARJORIE PHILLIPS</p> <p>2 (The record was read as follows:</p> <p>3 "Question: So she can't,</p> <p>4 herself, discipline anybody,</p> <p>5 correct?")</p> <p>6 MR. DRANOFF: And the objection</p> <p>7 is because she testified she has no</p> <p>8 knowledge of the actual procedures?</p> <p>9 MR. SELLS: Right, so you're</p> <p>10 basically trying to put that -- I am</p> <p>11 not trying to -- if you didn't know</p> <p>12 that's what you're doing. All I can</p> <p>13 say is even a broken clock is right</p> <p>14 twice a day.</p> <p>15 MR. DRANOFF: Exactly, now I</p> <p>16 have to keep my eye on you because you</p> <p>17 said you do it.</p> <p>18 Q. Ms. Phillips, let me rephrase</p> <p>19 the question this way then.</p> <p>20 Do you have any understanding,</p> <p>21 from any source, whether it's oral,</p> <p>22 written, from osmosis, whatever it is, of</p> <p>23 whether Ms. Davis has the power to</p> <p>24 administer discipline to any employee?</p> <p>25 A. I believe that she does, yes.</p>             |
| <p style="text-align: right;">Page 307</p> <p>1 MARJORIE PHILLIPS</p> <p>2 words in her mouth suggesting that she</p> <p>3 knows that Mary Davis couldn't</p> <p>4 administer, that she couldn't</p> <p>5 administer discipline to someone in</p> <p>6 the union. What I am suggesting to</p> <p>7 you there is no foundation for that</p> <p>8 question. And you're basically asking</p> <p>9 Ms. Phillips to speculate since she</p> <p>10 has no such knowledge.</p> <p>11 So I want -- I appreciate it.</p> <p>12 That's very subtle and I probably used</p> <p>13 that technique myself. But I think</p> <p>14 you're asking Ms. Phillips to</p> <p>15 speculate because she already said she</p> <p>16 has no foundation of knowledge to be</p> <p>17 able to answer that question.</p> <p>18 MR. DRANOFF: I appreciate it,</p> <p>19 Derek, but I have to confess I am</p> <p>20 really not that clever.</p> <p>21 I hate to do it to you,</p> <p>22 Ms. Matera, but can you read back my</p> <p>23 last question. I think what Derek</p> <p>24 says makes sense, but now I have to</p> <p>25 see if I can connect the dots here.</p> | <p style="text-align: right;">Page 309</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Now, what's your belief based</p> <p>3 on?</p> <p>4 A. Because there are incidents</p> <p>5 that have happened throughout my course</p> <p>6 of working at the college where you would</p> <p>7 be -- someone, not me, anyone could be</p> <p>8 called in to have a discussion about</p> <p>9 something with their supervisor.</p> <p>10 Q. So is it my understanding then</p> <p>11 that if Ms. Davis or anyone has a</p> <p>12 discussion with someone, you understand</p> <p>13 that to be a form of discipline?</p> <p>14 A. In a way, yes, because when</p> <p>15 you're being called in to discuss it, to</p> <p>16 me, that's a form of discipline, yes.</p> <p>17 Q. Okay. Would it be fair to use</p> <p>18 the word "counseled" instead of</p> <p>19 "disciplined," or you'll stay on the word</p> <p>20 "discipline"?</p> <p>21 A. It could be.</p> <p>22 Q. Okay. Now, let's talk about --</p> <p>23 strike that.</p> <p>24 A. I am just going to turn this</p> <p>25 air-conditioning off, it's cold.</p> |

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| <p style="text-align: right;">Page 310</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Now when we're talking about</p> <p>3 the upgrade that you understood that you</p> <p>4 were going to receive at the time you</p> <p>5 testified that you were having</p> <p>6 discussions with Ms. Davis about an</p> <p>7 upgrade, do you recall exactly what your</p> <p>8 gross salary was at that time?</p> <p>9 A. At that time, I could guess. I</p> <p>10 could guess.</p> <p>11 Q. Don't guess, give me your best</p> <p>12 recollection. We won't hold it to you</p> <p>13 exactly. I am just trying to get the</p> <p>14 flavor for it, too?</p> <p>15 A. 72,000.</p> <p>16 Q. You said 72K?</p> <p>17 A. I am just guessing, yeah.</p> <p>18 Q. So with respect to your</p> <p>19 discussions about an upgrade, was there a</p> <p>20 specific dollar amount that you would be</p> <p>21 receiving should you receive an upgrade?</p> <p>22 A. Yes.</p> <p>23 Q. And what was that dollar</p> <p>24 amount?</p> <p>25 A. When I say specific, an upgrade</p>   | <p style="text-align: right;">Page 312</p> <p>1 MARJORIE PHILLIPS</p> <p>2 salary that goes with the new position;</p> <p>3 is that correct?</p> <p>4 A. The salary goes with the</p> <p>5 promotion, yes.</p> <p>6 Q. Okay. So you can't have the</p> <p>7 upgrade without the promotion then,</p> <p>8 correct?</p> <p>9 A. I can't imagine that you could.</p> <p>10 Q. All right. So let's talk about</p> <p>11 the promotion, is that something</p> <p>12 different than a reclassification?</p> <p>13 A. Upgrade versus</p> <p>14 reclassification. Let me think. Let me</p> <p>15 give it some thought.</p> <p>16 It's not exactly the same, no.</p> <p>17 Q. Can you explain to me how they</p> <p>18 differ?</p> <p>19 A. The reclassification, my</p> <p>20 understanding -- I haven't had one in</p> <p>21 such a long time, it's hard to</p> <p>22 remember -- but a reclass is when you</p> <p>23 are, I guess maybe it could have applied</p> <p>24 to me. It could have applied to me when</p> <p>25 you're duties are going to change</p> |
| <p style="text-align: right;">Page 311</p> <p>1 MARJORIE PHILLIPS</p> <p>2 in salary goes along with the promotion.</p> <p>3 So I can't give you an exact dollar</p> <p>4 because we had not settled on what the</p> <p>5 step and the schedule was going to be, so</p> <p>6 I don't know what it would have been.</p> <p>7 Q. So those steps would be found</p> <p>8 in the collective bargaining agreement,</p> <p>9 correct?</p> <p>10 A. Yes, based on what you decide,</p> <p>11 yes.</p> <p>12 Q. You just set a light bulb over</p> <p>13 my head. It's not an aura, as you can</p> <p>14 see, a light bulb. And certainly not a</p> <p>15 halo, I tell you that.</p> <p>16 A. I am sure.</p> <p>17 Q. In any event, you mentioned</p> <p>18 upgrade, and I am understanding, and</p> <p>19 correct me if I am wrong, that upgrade</p> <p>20 refers only to salary, am I correct in --</p> <p>21 A. A promotion and an increase in</p> <p>22 salary. You don't get an increase in</p> <p>23 salary if you're not getting a promotion.</p> <p>24 Q. So the promotion then is the</p> <p>25 new position and the upgrade is the</p> | <p style="text-align: right;">Page 313</p> <p>1 MARJORIE PHILLIPS</p> <p>2 somewhat. Your total position is not</p> <p>3 necessarily going to change, but it's</p> <p>4 being reclassified because new</p> <p>5 responsibilities are being introduced</p> <p>6 into your position. So it's being</p> <p>7 reclassified.</p> <p>8 Q. Okay. And that's to be</p> <p>9 distinguished from a promotion how?</p> <p>10 A. Because an upgrade could be a</p> <p>11 new position altogether.</p> <p>12 Q. I am not talking upgrade.</p> <p>13 Because I thought we were saying that the</p> <p>14 upgrade comes with the promotion, right?</p> <p>15 So the reclassification is there were</p> <p>16 additional job duties, but not</p> <p>17 necessarily a new position; is that</p> <p>18 correct?</p> <p>19 A. Yes.</p> <p>20 Q. And a promotion is a whole</p> <p>21 different job altogether; is that</p> <p>22 correct?</p> <p>23 A. No.</p> <p>24 Q. How am I wrong? I need help</p> <p>25 here.</p>  |

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| <p style="text-align: right;">Page 314</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Promotion is not necessarily a</p> <p>3 brand new job altogether.</p> <p>4 Q. So --</p> <p>5 A. It includes new</p> <p>6 responsibilities.</p> <p>7 Q. The promotion includes new</p> <p>8 responsibilities?</p> <p>9 A. It can include new</p> <p>10 responsibilities.</p> <p>11 Q. And then is a reclassification</p> <p>12 essentially a reconstruction of a job</p> <p>13 description to better match the actual</p> <p>14 responsibilities that are being done by</p> <p>15 an employee? Nothing new, stuff you are</p> <p>16 already doing, but they are rewriting</p> <p>17 your job description to make them all</p> <p>18 harmonize with one another?</p> <p>19 A. Yes, but also in addition --</p> <p>20 yes, but in addition to what you just</p> <p>21 said, for example, I had -- yes, the</p> <p>22 answer is yes. But if you are taking on</p> <p>23 new responsibilities without any</p> <p>24 discussion about end to money, reclass,</p> <p>25 upgrade, you're just taking on new</p>   | <p style="text-align: right;">Page 316</p> <p>1 MARJORIE PHILLIPS</p> <p>2 also need some help from you with, I</p> <p>3 think it's a union lingo. But if someone</p> <p>4 is in a certain job description and it</p> <p>5 says, you know, "I am going to work on</p> <p>6 Excel" and that's in the description, and</p> <p>7 all of the things that you're supposed to</p> <p>8 do in a particular job, whatever that job</p> <p>9 is. If the position evolves where you're</p> <p>10 doing a lot of stuff that's not in the</p> <p>11 description, is there a union phrase</p> <p>12 associated with that, like working out of</p> <p>13 turn or something of that nature?</p> <p>14 Have you ever heard a phrase</p> <p>15 that's used to describe when people are</p> <p>16 doing things outside of their job</p> <p>17 description?</p> <p>18 A. I can't speak to that, no.</p> <p>19 Q. So I am going to ask you then</p> <p>20 to describe, if you could, any phrase you</p> <p>21 would use for the situation where someone</p> <p>22 is actually performing a lot of work or</p> <p>23 any work that's not in their job</p> <p>24 description. Is there a phrase that you</p> <p>25 use for that?</p> |
| <p style="text-align: right;">Page 315</p> <p>1 MARJORIE PHILLIPS</p> <p>2 responsibilities. And not necessarily --</p> <p>3 just because you want to do more. And it</p> <p>4 could be the reason that you're able to</p> <p>5 sit at a table and have that discussion</p> <p>6 about an upgrade from either the</p> <p>7 supervisor or for yourself because you're</p> <p>8 taking on these new responsibilities.</p> <p>9 In addition to that, you could</p> <p>10 be open to taking on even more</p> <p>11 responsibilities. And that was the</p> <p>12 position that I was in, Marjorie Phillips</p> <p>13 was in. And that is the position that</p> <p>14 brought me to having these discussions.</p> <p>15 Q. Okay. So with respect to your</p> <p>16 particular situation, were you getting a</p> <p>17 reclassification or a promotion?</p> <p>18 A. We don't use the word</p> <p>19 "promotion" at FIT. We use the word</p> <p>20 "upgrade." We don't use the word</p> <p>21 "promotion." The terminology at FIT is</p> <p>22 upgrades and reclassification. It does</p> <p>23 mean a promotion, but that's not the</p> <p>24 terminology that FIT uses.</p> <p>25 Q. All right. So I am going to</p> | <p style="text-align: right;">Page 317</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. A good employee.</p> <p>3 Q. Okay. Touche, Ms. Phillips.</p> <p>4 Moving on, yesterday you were</p> <p>5 talking about Ms. Davis. And correct me</p> <p>6 if I am wrong, I am not trying to put</p> <p>7 words in your mouth, but what I came away</p> <p>8 with is you said that none of this would</p> <p>9 have happened and the suit may not have</p> <p>10 even happened if it weren't for</p> <p>11 Ms. Davis. Am I correct in kind of</p> <p>12 summarizing what you said about that?</p> <p>13 MR. SELLS: I am going to object</p> <p>14 to that. Eric, I think we should let</p> <p>15 the transcript speak for itself and</p> <p>16 not, not sort of use your recollection</p> <p>17 or rephrasing as a question. I think</p> <p>18 it's better to just ask a question</p> <p>19 without reference to what she</p> <p>20 testified to yesterday.</p> <p>21 MR. DRANOFF: Well taken, Derek.</p> <p>22 Q. So Ms. Phillips, is it your</p> <p>23 position that what occurred, and that</p> <p>24 could be dealing with Marilyn Barton, you</p> <p>25 commencing this lawsuit, was all because</p>                         |

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| <p style="text-align: right;">Page 318</p> <p>1 MARJORIE PHILLIPS</p> <p>2 of things Mary Davis did not do?</p> <p>3 A. No.</p> <p>4 Q. Is it your position at all that</p> <p>5 Mary Davis did not follow certain FIT</p> <p>6 policies or procedures?</p> <p>7 A. Yes.</p> <p>8 Q. Can you describe what policies</p> <p>9 you believe Ms. Davis did not follow?</p> <p>10 A. Well, for example, my</p> <p>11 understanding, when I went to Mary to</p> <p>12 discuss, you know, some of the complaints</p> <p>13 that I had with some of the other</p> <p>14 coworkers, my understanding with regard</p> <p>15 to discrimination, retaliation, that it</p> <p>16 would have been her responsibility to</p> <p>17 take these matters, I would talk to her</p> <p>18 about what I felt, what I was</p> <p>19 experiencing, and have my official</p> <p>20 complaint presented to her. And then she</p> <p>21 would go to HR and take over from there.</p> <p>22 And she didn't do that.</p> <p>23 Q. Okay. Where is your</p> <p>24 understanding coming from?</p> <p>25 A. My understanding, I have an</p>                        | <p style="text-align: right;">Page 320</p> <p>1 MARJORIE PHILLIPS</p> <p>2 conducted. So other than that.</p> <p>3 MR. DRANOFF: Okay.</p> <p>4 Q. So Ms. Phillips, you just heard</p> <p>5 what Mr. Sells said.</p> <p>6 MR. SELLS: Why don't we pull it</p> <p>7 up. Do you want to pull it up?</p> <p>8 MR. DRANOFF: No.</p> <p>9 MR. SELLS: We can pull it up.</p> <p>10 MR. DRANOFF: I want to get it</p> <p>11 all done while I'm still young.</p> <p>12 MR. SELLS: All right. I don't</p> <p>13 want you to -- I don't want you to</p> <p>14 rely on --</p> <p>15 MR. DRANOFF: I am not going to</p> <p>16 misquote anything because I am not</p> <p>17 interested in reading it right now.</p> <p>18 And I am not going to try to trick</p> <p>19 Ms. Phillips, because you will see</p> <p>20 with the next question.</p> <p>21 Q. The belief that you talked</p> <p>22 about is to what you think Ms. Davis</p> <p>23 should have done; did there ever come a</p> <p>24 time where you looked at the</p> <p>25 nondiscrimination and antiharassment</p> |
| <p style="text-align: right;">Page 319</p> <p>1 MARJORIE PHILLIPS</p> <p>2 understanding that the supervisor is the</p> <p>3 one who goes to HR and you speak to the</p> <p>4 supervisor and then the supervisor speaks</p> <p>5 to HR.</p> <p>6 Q. At any time, up to this day --</p> <p>7 no, forget up to this day. We'll stay</p> <p>8 with up to today. Up to today, have you</p> <p>9 ever looked at the nondiscrimination and</p> <p>10 antiharassment policy to confirm or not</p> <p>11 your belief as to what the procedure</p> <p>12 should have been?</p> <p>13 A. No, I answered that --</p> <p>14 MR. SELLS: Eric, we're not</p> <p>15 talking about yesterday and Exhibit 5?</p> <p>16 MR. DRANOFF: I don't know what</p> <p>17 Exhibit 5 is, Derek. Tell me what</p> <p>18 Exhibit 5 is.</p> <p>19 MR. SELLS: So Exhibit 5 is the</p> <p>20 nondiscrimination and antiharassment</p> <p>21 policy that Ms. Phillips saw during</p> <p>22 her testimony. And specifically</p> <p>23 references that an employee at FIT can</p> <p>24 complain to their manager and an</p> <p>25 investigation is supposed to be</p> | <p style="text-align: right;">Page 321</p> <p>1 MARJORIE PHILLIPS</p> <p>2 policy to confirm whether your belief was</p> <p>3 accurate?</p> <p>4 A. No.</p> <p>5 MR. DRANOFF: Wasn't that easy,</p> <p>6 Derek?</p> <p>7 Q. Now, I want to just talk about</p> <p>8 Ms. Barton for a second or two or three.</p> <p>9 With respect to the incident that you had</p> <p>10 with Ms. Barton, do you have any</p> <p>11 understanding as to whether or not</p> <p>12 Ms. Davis could, herself, have</p> <p>13 disciplined Ms. Barton for that incident?</p> <p>14 A. Do I have any knowledge of</p> <p>15 whether she --</p> <p>16 Q. Do you have any understanding</p> <p>17 of whether Ms. Davis had the power or</p> <p>18 authority to discipline Ms. Barton for</p> <p>19 that incident?</p> <p>20 A. No.</p> <p>21 Q. Are there any FIT policies or</p> <p>22 procedures that you claim Ms. Davis did</p> <p>23 not follow as far as the Barton incident</p> <p>24 was concerned?</p> <p>25 A. Can you repeat your question?</p>                              |

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| <p style="text-align: right;">Page 322</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Sure.</p> <p>3 MR. DRANOFF: Ms. Matera, can</p> <p>4 you please read the question back.</p> <p>5 (The record was read as follows:</p> <p>6 "Question: Are there any FIT</p> <p>7 policies or procedures that you claim</p> <p>8 Ms. Davis did not follow as far as the</p> <p>9 Barton incident was concerned?")</p> <p>10 MR. SELLS: And just for</p> <p>11 clarity, Eric, when you say the Barton</p> <p>12 incident, obviously Ms. Phillips</p> <p>13 reported multiple Barton incidents.</p> <p>14 And so are you referring to the one on</p> <p>15 May 16th?</p> <p>16 MR. DRANOFF: I am referring to</p> <p>17 the May 16th, and to be clear, what</p> <p>18 Ms. Phillips claims was an assault by</p> <p>19 Ms. Barton, okay?</p> <p>20 A. Repeat your question one more</p> <p>21 time, please.</p> <p>22 (The record was read as follows:</p> <p>23 "Question: Are there any FIT</p> <p>24 policies or procedures that you claim</p> <p>25 Ms. Davis did not follow as far as the</p>  | <p style="text-align: right;">Page 324</p> <p>1 MARJORIE PHILLIPS</p> <p>2 believe that the question related to</p> <p>3 whether Ms. Davis violated any policies</p> <p>4 or procedures. And you said possibly.</p> <p>5 But with that, can you specifically tell</p> <p>6 all of us what written policies or</p> <p>7 procedures Ms. Davis did not follow with</p> <p>8 respect to that May 16th, 2019 incident?</p> <p>9 A. She did not direct me -- I</p> <p>10 spoke with her twice.</p> <p>11 Q. But what I am asking is if</p> <p>12 you're aware of any specific policy or</p> <p>13 procedure that she violated, as</p> <p>14 distinguished from what you and she might</p> <p>15 have talked about.</p> <p>16 I am just interested in if you</p> <p>17 know of any policies or procedures that</p> <p>18 Ms. Davis may have violated. I am</p> <p>19 talking about FIT procedures of course.</p> <p>20 A. I am going to say no.</p> <p>21 MR. DRANOFF: All right. You</p> <p>22 all want to take a break and then</p> <p>23 Bruce follow through because I think I</p> <p>24 am done.</p> <p>25 (Off the record.)</p> |
| <p style="text-align: right;">Page 323</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Barton incident was concerned?")</p> <p>3 A. Possibly, yes.</p> <p>4 Q. Okay. When you say possibly,</p> <p>5 what's running through your mind about</p> <p>6 what procedures, specifically, are you</p> <p>7 thinking about?</p> <p>8 A. What's running through my mind</p> <p>9 was what actually happened that day.</p> <p>10 Marilyn Barton spoke with Mary Davis</p> <p>11 before me, before Mary spoke with me.</p> <p>12 Marilyn Barton was in communication with</p> <p>13 Mary Davis before Mary spoke with me.</p> <p>14 The conversation with Marilyn Barton came</p> <p>15 before Mary sat with me.</p> <p>16 Then when Mary and I spoke she</p> <p>17 claimed that she knew everything that had</p> <p>18 happened because she had had a discussion</p> <p>19 with Marilyn. She didn't really say a</p> <p>20 whole lot in our discussion. She really</p> <p>21 didn't say a whole lot in our discussion.</p> <p>22 And -- she didn't say a whole lot in our</p> <p>23 discussion.</p> <p>24 Q. Okay. So let's bring it back</p> <p>25 then to policies and procedures. I</p> | <p style="text-align: right;">Page 325</p> <p>1 MARJORIE PHILLIPS</p> <p>2 EXAMINATION BY MR. MENKEN:</p> <p>3 Q. Good morning, Ms. Phillips.</p> <p>4 A. Good morning.</p> <p>5 Q. My name is Bruce Menken. I am</p> <p>6 representing Marilyn Barton in a case</p> <p>7 that you brought in Southern District</p> <p>8 federal courthouse. I am going to ask</p> <p>9 you some questions, okay?</p> <p>10 A. Yes.</p> <p>11 Q. You understand that the oath</p> <p>12 you took yesterday administered by</p> <p>13 Ms. Matera is something that you need to</p> <p>14 follow today as well, right?</p> <p>15 A. Yes.</p> <p>16 Q. Excellent. FIT is located in</p> <p>17 the 20s in Manhattan, right?</p> <p>18 A. Yes.</p> <p>19 Q. What's the exact address?</p> <p>20 A. 227 West 27th Street or 7th</p> <p>21 Avenue at 27th Street.</p> <p>22 Q. And you live currently on East</p> <p>23 107th Street?</p> <p>24 A. Yes.</p> <p>25 Q. How long have you lived at East</p>  |

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| <p style="text-align: right;">Page 326</p> <p>1 MARJORIE PHILLIPS</p> <p>2 107th Street?</p> <p>3 A. At least 25 years.</p> <p>4 Q. So for the duration of your</p> <p>5 employment at FIT you lived at that</p> <p>6 location on East 107th Street?</p> <p>7 A. Yes.</p> <p>8 Q. And typically, how would you</p> <p>9 travel to and from work from East 107th</p> <p>10 Street to FIT on 27th Street and 7th</p> <p>11 Avenue?</p> <p>12 A. By subway.</p> <p>13 Q. And what subway would you take?</p> <p>14 A. Number 2.</p> <p>15 Q. And that's the express line?</p> <p>16 A. Yes.</p> <p>17 Q. And where would you get on?</p> <p>18 A. On at 110th Street and Lenox</p> <p>19 Avenue.</p> <p>20 Q. So you would walk there from</p> <p>21 your apartment?</p> <p>22 A. Yes.</p> <p>23 Q. And then you would walk home</p> <p>24 from the subway stop at the end of the</p> <p>25 day?</p>                | <p style="text-align: right;">Page 328</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. What time do you recall getting</p> <p>4 to work that day?</p> <p>5 A. I don't recall.</p> <p>6 Q. What time did you typically get</p> <p>7 to work at FIT during that time period?</p> <p>8 A. About 9:30.</p> <p>9 Q. And what was your -- what time</p> <p>10 would you leave at the end of the day?</p> <p>11 A. That particular day or in</p> <p>12 general?</p> <p>13 Q. In general?</p> <p>14 A. 5:30.</p> <p>15 Q. And among you, Ms. Barton and</p> <p>16 Ms. Davis, who typically worked -- who</p> <p>17 got in earlier, if you could sort of</p> <p>18 generally say who got in first, who got</p> <p>19 in second, who got in third during 2019,</p> <p>20 before the incident?</p> <p>21 A. Typically, any average day</p> <p>22 Umilta is the first one to arrive. She</p> <p>23 usually gets in around 8:30. I'm usually</p> <p>24 about the second to arrive. I get in</p> <p>25 about 9:30. Mary Davis and Marilyn --</p> |
| <p style="text-align: right;">Page 327</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. And where would you get off to</p> <p>4 get to FIT?</p> <p>5 A. On 42nd Street.</p> <p>6 Q. And would you walk down from</p> <p>7 42nd Street to 27th?</p> <p>8 A. No, then I would switch over to</p> <p>9 the local train, the number 1. And then</p> <p>10 I get off on 28th Street.</p> <p>11 Q. And you would do the same thing</p> <p>12 on the way back, as well?</p> <p>13 A. Yes.</p> <p>14 Q. Do you drive a car?</p> <p>15 A. No, I do not.</p> <p>16 Q. You don't own a car?</p> <p>17 A. No, I do not.</p> <p>18 Q. May 16, 2019, it was a</p> <p>19 Thursday, correct?</p> <p>20 A. Yes.</p> <p>21 Q. And you were at work that day</p> <p>22 and that was a day that you got into</p> <p>23 this, or I should say Ms. Barton,</p> <p>24 according to you, got in your face,</p> <p>25 correct?</p> | <p style="text-align: right;">Page 329</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Mary kind of ranges around 10:00. And</p> <p>3 Marilyn comes in at 10:00.</p> <p>4 Q. So on May 16th, 2019, you took</p> <p>5 the number 2 to the number 1 to get to</p> <p>6 the office that day?</p> <p>7 A. Yes.</p> <p>8 Q. And do you recall what the</p> <p>9 weather was that day?</p> <p>10 A. No, I do not.</p> <p>11 Q. And is it your memory that you</p> <p>12 arrived at about 9:30, like you just</p> <p>13 testified you typically do?</p> <p>14 A. Typically, yes.</p> <p>15 Q. And how soon after you arrived</p> <p>16 did Marilyn Barton arrive, if she arrived</p> <p>17 after you?</p> <p>18 A. I don't remember.</p> <p>19 Q. Did you arrive before her on</p> <p>20 May 16th, 2019, to work?</p> <p>21 A. I don't remember.</p> <p>22 Q. How soon after you arrived at</p> <p>23 work did this student come into the</p> <p>24 office to discuss the issue of the</p> <p>25 convocation regalia?</p>                                     |

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| <p style="text-align: right;">Page 330</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I don't remember the exact</p> <p>3 time.</p> <p>4 Q. Generally how soon after you</p> <p>5 arrived that day at approximately 9:30</p> <p>6 did she come into the office?</p> <p>7 A. Generally, around 11, maybe.</p> <p>8 Maybe 11:30. I don't remember. I</p> <p>9 honestly don't remember.</p> <p>10 Q. And could you describe the</p> <p>11 student, what she looked like?</p> <p>12 A. She was a young girl. Actually</p> <p>13 she's one of my students, fashion and</p> <p>14 textile studies. So a young white girl.</p> <p>15 Sort of blondish, brownish hair. Just</p> <p>16 young.</p> <p>17 Q. Did you say a white girl or a</p> <p>18 black girl, I didn't hear you?</p> <p>19 A. A white girl.</p> <p>20 Q. And is she taller than you?</p> <p>21 A. Yes.</p> <p>22 Q. When you say she was a young</p> <p>23 girl, because it's a School of Graduate</p> <p>24 Studies, I am assuming she was older than</p> <p>25 21, correct?</p>                                | <p style="text-align: right;">Page 332</p> <p>1 MARJORIE PHILLIPS</p> <p>2 not that predictable.</p> <p>3 Q. When you took the public</p> <p>4 transportation home, on May 16th, 2019,</p> <p>5 you were by yourself, correct?</p> <p>6 A. Yes.</p> <p>7 Q. And what time did you arrive</p> <p>8 home at May 16th, 2019?</p> <p>9 A. Around 5:30, maybe.</p> <p>10 Q. You went to a police precinct</p> <p>11 on that day or no?</p> <p>12 A. No. Not that day.</p> <p>13 Q. The incident of May 16th, 2019,</p> <p>14 as we're calling it, you reported to FIT</p> <p>15 Public Safety Office, correct?</p> <p>16 A. Yes.</p> <p>17 Q. Human resources FIT, correct?</p> <p>18 A. Yes.</p> <p>19 Q. The union, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Office of Affirmative Action</p> <p>22 FIT, correct?</p> <p>23 A. Yes.</p> <p>24 Q. And NYPD?</p> <p>25 A. Not on -- NYPD, not on that</p>  |
| <p style="text-align: right;">Page 331</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. Was she as old as 25 or</p> <p>4 somewhere between 21 and 25?</p> <p>5 A. I don't know how old she was.</p> <p>6 Q. Fair to say she was between 21</p> <p>7 and 25?</p> <p>8 A. I don't know how old she is.</p> <p>9 Q. When Ms. Barton was talking to</p> <p>10 her, would you say that Ms. Barton's tone</p> <p>11 was calm and measured?</p> <p>12 A. Yes.</p> <p>13 Q. And by the way, on May 16,</p> <p>14 2019, how did you get home from work?</p> <p>15 A. I took the train.</p> <p>16 Q. And that means you walked up,</p> <p>17 you walked to 28th Street. You took the</p> <p>18 number 1 train to 42nd Street. And then</p> <p>19 you transferred ought 42nd Street and</p> <p>20 took the 2 to 110th and Lenox and walked</p> <p>21 home?</p> <p>22 A. Maybe I did, maybe I didn't. I</p> <p>23 could have taken the number 1 all the way</p> <p>24 home. I could have taken the number 1 to</p> <p>25 72nd Street and then switched over. I am</p> | <p style="text-align: right;">Page 333</p> <p>1 MARJORIE PHILLIPS</p> <p>2 day.</p> <p>3 Q. Got you. So you reported it to</p> <p>4 FIT Public Safety, FIT HR, FIT</p> <p>5 Affirmative Action, and your local union</p> <p>6 on May 16th, 2019?</p> <p>7 A. Yes.</p> <p>8 Q. Where was the first complaint</p> <p>9 made?</p> <p>10 A. The first complaint was, I</p> <p>11 believe, it was either Affirmative Action</p> <p>12 or the union.</p> <p>13 MR. SELLS: Just to be clear on</p> <p>14 that question, Bruce, since you did</p> <p>15 not put a time frame, are you still</p> <p>16 referring to the May 16th incident?</p> <p>17 MR. MENKEN: I am.</p> <p>18 MR. SELLS: Okay.</p> <p>19 Q. So Ms. Phillips, you just</p> <p>20 testified that you didn't know if it was</p> <p>21 FIT Affirmative Action or the union. How</p> <p>22 did you complain to the affirmative -- to</p> <p>23 FIT Affirmative Action, FIT, the union.</p> <p>24 A. The e-mail.</p> <p>25 Q. And did you send those e-mails</p> |

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| <p style="text-align: right;">Page 334</p> <p>1 MARJORIE PHILLIPS</p> <p>2 from your office at FIT?</p> <p>3 A. Yes.</p> <p>4 Q. And that office was located</p> <p>5 where?</p> <p>6 A. The E building, Goodman</p> <p>7 building E, room E315.</p> <p>8 Q. And as of May 16th, 2019, where</p> <p>9 was Marilyn Barton's office?</p> <p>10 A. We were in the same office.</p> <p>11 Q. She was in E315 as well?</p> <p>12 A. Yes.</p> <p>13 Q. So who was in E315 --</p> <p>14 withdrawn.</p> <p>15 Who was assigned and regularly</p> <p>16 going to E315, other than you and</p> <p>17 Ms. Barton, on May 16th, 2019?</p> <p>18 A. Mary Davis and Umilta Allsop.</p> <p>19 Q. So it was the four of you?</p> <p>20 A. Yes.</p> <p>21 Q. Do you know what race or color</p> <p>22 Umilta identifies as?</p> <p>23 A. African American.</p> <p>24 Q. What office did Anton Baptiste</p> <p>25 work out of as of May 16th, 2019?</p>   | <p style="text-align: right;">Page 336</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. When you say he used to come to</p> <p>3 your office, what do you mean by that?</p> <p>4 A. He's Anton's friend, so he</p> <p>5 would visit Anton often.</p> <p>6 Q. I understand. And how old is</p> <p>7 Anton Baptiste about?</p> <p>8 A. About, I am guessing, 38.</p> <p>9 Q. And how about Henry Wallace,</p> <p>10 how old was he, about?</p> <p>11 A. Maybe about the same age. I</p> <p>12 don't know. I am just guessing. I don't</p> <p>13 know.</p> <p>14 Q. And do you know what race or</p> <p>15 color Henry Wallace identifies as?</p> <p>16 A. I do not know. I do not know.</p> <p>17 Q. Okay. From his physical</p> <p>18 appearance, how would you describe it?</p> <p>19 A. From his physical appearance,</p> <p>20 he looks African American.</p> <p>21 Q. So would you say that the first</p> <p>22 time that you saw Ms. Barton on May 16th,</p> <p>23 2019, was it about 10:00 in the morning</p> <p>24 or some time later?</p> <p>25 A. I don't know. I don't remember</p> |
| <p style="text-align: right;">Page 335</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I don't know the room number,</p> <p>3 but he was about two doors down from us.</p> <p>4 Q. And was it the practice at the</p> <p>5 time for E315 to have the doors open?</p> <p>6 A. No.</p> <p>7 Q. And did Mr. Baptiste -- does</p> <p>8 Mr. Baptiste identify as African American</p> <p>9 as well?</p> <p>10 A. Yes.</p> <p>11 Q. And you had a colleague in SGS</p> <p>12 named Henry Wallace, correct?</p> <p>13 A. Yes.</p> <p>14 Q. What was his job title?</p> <p>15 A. He was a technician for fashion</p> <p>16 design.</p> <p>17 Q. And where was his office as of</p> <p>18 May 16th, 2019?</p> <p>19 A. In 236 West 27th Street, I</p> <p>20 believe. I think he was working for us</p> <p>21 at that time. I honestly don't remember</p> <p>22 if he was working for us at that time,</p> <p>23 because he used to come to our office</p> <p>24 before he started working for the School</p> <p>25 of Graduate Studies.</p> | <p style="text-align: right;">Page 337</p> <p>1 MARJORIE PHILLIPS</p> <p>2 the time.</p> <p>3 Q. How much time after Ms. Barton</p> <p>4 arrived on May 16th, 2019 at work elapsed</p> <p>5 before she got in your face?</p> <p>6 A. I don't remember. I don't</p> <p>7 recall.</p> <p>8 Q. Do you remember the first time</p> <p>9 that you met Marilyn Barton?</p> <p>10 A. The first time? I don't</p> <p>11 remember the first time. No.</p> <p>12 Q. You have been at FIT for</p> <p>13 approximately 20 years?</p> <p>14 A. Probably closer to 25.</p> <p>15 Q. And Ms. Barton has got a little</p> <p>16 bit more seniority than you at FIT,</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. Have you ever socialized with</p> <p>20 her, just the two of you?</p> <p>21 A. No, I have not.</p> <p>22 Q. Have you ever gone to a social</p> <p>23 event outside of FIT with her and others?</p> <p>24 A. Yes, I have.</p> <p>25 Q. And on how many occasions?</p>   |

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| <p style="text-align: right;">Page 338</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. A couple. Two, three. Maybe</p> <p>3 four occasions.</p> <p>4 Q. And can you describe the</p> <p>5 occasions?</p> <p>6 A. Christmas parties. Office</p> <p>7 events that were outside of the college.</p> <p>8 Q. And would they be at</p> <p>9 restaurants or --</p> <p>10 A. Yes, at restaurants.</p> <p>11 Q. And did you consume alcohol on</p> <p>12 those occasions?</p> <p>13 A. I am certain, yes.</p> <p>14 Q. And did Ms. Barton consume</p> <p>15 alcohol at those occasions?</p> <p>16 A. Yes.</p> <p>17 Q. And at those occasions, there</p> <p>18 were both white people and African</p> <p>19 American people, fair to say?</p> <p>20 A. Yes.</p> <p>21 Q. Ms. Phillips, other than</p> <p>22 Ms. Barton's behavior on May 16, 2019,</p> <p>23 when she got in your face, what, if any,</p> <p>24 information do you have that would, that</p> <p>25 made you feel as if Ms. Barton was going</p> | <p style="text-align: right;">Page 340</p> <p>1 MARJORIE PHILLIPS</p> <p>2 obscene language, correct?</p> <p>3 A. Correct.</p> <p>4 Q. Have you had any remote or</p> <p>5 virtual contact with Ms. Barton since May</p> <p>6 16th, 2019?</p> <p>7 A. Yes.</p> <p>8 Q. Under what circumstances?</p> <p>9 A. Staff meetings with everyone</p> <p>10 else, we are just part of a group.</p> <p>11 Q. And Dr. Vaughns, he's African</p> <p>12 American, correct?</p> <p>13 A. Yes.</p> <p>14 Q. And when he met with you, did</p> <p>15 he, at any of those sessions, also meet</p> <p>16 with Marilyn Barton?</p> <p>17 A. Yes.</p> <p>18 Q. But I guess I just want to be</p> <p>19 clear, did you and Ms. Barton meet</p> <p>20 together with Dr. Vaughns?</p> <p>21 A. No.</p> <p>22 Q. Did FIT ever communicate an</p> <p>23 interest to you that the two of you meet</p> <p>24 together with Dr. Vaughns?</p> <p>25 A. Yes.</p> |
| <p style="text-align: right;">Page 339</p> <p>1 MARJORIE PHILLIPS</p> <p>2 to kill you on May 16th, 2019?</p> <p>3 A. Prior to May 16th, I had no</p> <p>4 information that she was going to do</p> <p>5 that.</p> <p>6 Q. And since May 16th, 2019, how</p> <p>7 many times have you seen Ms. Barton in</p> <p>8 person?</p> <p>9 A. Since then, I don't know for</p> <p>10 sure is the answer. I don't know for</p> <p>11 sure.</p> <p>12 Q. Less than 10 times?</p> <p>13 A. Yes.</p> <p>14 Q. And during those less than 10</p> <p>15 times, I assume they were at work at FIT?</p> <p>16 A. Yes.</p> <p>17 Q. And at no time during those</p> <p>18 less than 10 times on May 16th, 2019, has</p> <p>19 Ms. Barton physically threatened you,</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. And she hasn't raised her voice</p> <p>23 at you, correct?</p> <p>24 A. Correct.</p> <p>25 Q. And she hasn't used vulgar or</p>   | <p style="text-align: right;">Page 341</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. And as a result, did you end up</p> <p>3 doing that or no?</p> <p>4 A. No, did not.</p> <p>5 Q. And that's because you decided</p> <p>6 that you didn't want to be in the same</p> <p>7 room as Ms. Barton?</p> <p>8 A. Yes.</p> <p>9 Q. Because you were afraid of your</p> <p>10 safety?</p> <p>11 A. Yes.</p> <p>12 Q. And you were afraid that</p> <p>13 Ms. Barton would kill you?</p> <p>14 A. Yes.</p> <p>15 Q. Now, you mentioned yesterday a</p> <p>16 woman named Arlene Spivack?</p> <p>17 A. Yes. Spivack.</p> <p>18 Q. Is she an FIT employee?</p> <p>19 A. Yes.</p> <p>20 Q. How long has she been an FIT</p> <p>21 employee for?</p> <p>22 A. I don't know.</p> <p>23 Q. What's her job title?</p> <p>24 A. She is the executive assistant</p> <p>25 to the president.</p>   |

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| <p style="text-align: right;">Page 342</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. And that's Ms. Brown, correct,</p> <p>3 or Dr. Brown?</p> <p>4 A. Yes.</p> <p>5 Q. And she told you, according to</p> <p>6 your testimony, that she was surprised</p> <p>7 that Marilyn Barton did what she did on</p> <p>8 May 16th, 2019, correct?</p> <p>9 MR. SELLS: Can you just clarify</p> <p>10 that question? You mentioned two</p> <p>11 different --</p> <p>12 MR. MENKEN: Can you just read</p> <p>13 the question back, Dawn.</p> <p>14 MR. SELLS: Well, hold on, read</p> <p>15 back the last two, if you could, Dawn,</p> <p>16 only because you made reference to two</p> <p>17 different women and she said she, and</p> <p>18 I didn't know which one you were</p> <p>19 referring to.</p> <p>20 MR. MENKEN: Let's make sure the</p> <p>21 record is clear, thanks, Dawn.</p> <p>22 (The record was read as follows:</p> <p>23 "Question: Now, you mentioned</p> <p>24 yesterday a woman named Arlene</p> <p>25 Spivack?</p> | <p style="text-align: right;">Page 344</p> <p>1 MARJORIE PHILLIPS</p> <p>2 are you referring to --</p> <p>3 MR. MENKEN: Spivack.</p> <p>4 MR. SELLS: That was the source</p> <p>5 of my objection. The last woman's</p> <p>6 name that came up was Dean Brown. So</p> <p>7 why don't you make it clear, Bruce,</p> <p>8 thank you.</p> <p>9 Q. Ms. Phillips, you were</p> <p>10 surprised, as well, when Ms. Barton did</p> <p>11 what she did on May 16th, 2019 in the FIT</p> <p>12 office, correct?</p> <p>13 A. Yes.</p> <p>14 Q. It was something completely out</p> <p>15 of the blue that you had never seen</p> <p>16 Ms. Barton do, correct?</p> <p>17 A. Correct.</p> <p>18 Q. Have you ever heard Ms. Barton</p> <p>19 use the word "fuck" to a colleague at</p> <p>20 FIT?</p> <p>21 A. Use the word, yes. Yes.</p> <p>22 Q. But not in the aggressive way</p> <p>23 that she used it with you, correct?</p> <p>24 A. No.</p> <p>25 Q. How many years, Ms. Phillips,</p> |
| <p style="text-align: right;">Page 343</p> <p>1 MARJORIE PHILLIPS</p> <p>2 "Answer: Yes. Spivack.</p> <p>3 "Question: Is she an FIT</p> <p>4 employee.</p> <p>5 "Answer: Yes.</p> <p>6 "Question: How long has she</p> <p>7 been an FIT employee for?</p> <p>8 "Answer: I don't know.</p> <p>9 "Question: What's her job</p> <p>10 title?</p> <p>11 "Answer: She is the executive</p> <p>12 assistant to the president.</p> <p>13 "Question: And that's</p> <p>14 Ms. Brown, correct, or Dr. Brown?</p> <p>15 "Answer: Yes.</p> <p>16 "Question: And she told you,</p> <p>17 according to your testimony, that she</p> <p>18 was surprised that Marilyn Barton did</p> <p>19 what she did on May 16th, 2019,</p> <p>20 correct?")</p> <p>21 Q. Can you answer the question,</p> <p>22 Ms. Phillips?</p> <p>23 A. Yes.</p> <p>24 MR. SELLS: Are you referring --</p> <p>25 so are you referring to Dr. Brown or</p>   | <p style="text-align: right;">Page 345</p> <p>1 MARJORIE PHILLIPS</p> <p>2 have you worked in the same E315 office</p> <p>3 with Ms. Barton, up until May 16th, 2019?</p> <p>4 A. Approximately eight years.</p> <p>5 Q. And what, if anything,</p> <p>6 separates her desk from your desk?</p> <p>7 A. Nothing.</p> <p>8 Q. Was there a partition or a</p> <p>9 divider, anything like that?</p> <p>10 A. Yes.</p> <p>11 Q. And what is the divider made</p> <p>12 of?</p> <p>13 A. Fabric.</p> <p>14 Q. And I am assuming if someone</p> <p>15 would stand up, you could see over the</p> <p>16 divider, correct?</p> <p>17 A. No, not necessarily.</p> <p>18 Q. Maybe I should ask you this,</p> <p>19 how high is the divider between your</p> <p>20 withdrawn -- withdrawn.</p> <p>21 How high was the divider</p> <p>22 between your desk and Ms. Barton's desk</p> <p>23 on May 16th, 2019?</p> <p>24 A. The divider is not between</p> <p>25 Barton and myself.</p>          |

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| <p style="text-align: right;">Page 346</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Could you describe it for the</p> <p>3 record so I am clear?</p> <p>4 A. The partition is behind me and</p> <p>5 I can see Marilyn, there is no partition</p> <p>6 between Marilyn and I.</p> <p>7 Q. So if you're sitting at your</p> <p>8 desk, Ms. Phillips --</p> <p>9 MR. SELLS: Hold on a second,</p> <p>10 hold on for one second.</p> <p>11 MR. MENKEN: Derek, could you</p> <p>12 hold on one second. It would be</p> <p>13 better if you just say objection to</p> <p>14 form.</p> <p>15 MR. SELLS: Bruce, if that's</p> <p>16 what I wanted to do, I would. But the</p> <p>17 reason I am stopping the proceedings</p> <p>18 right now, Bruce, is because I noticed</p> <p>19 that Mary Davis is on the line. And I</p> <p>20 see that her camera is off and I just</p> <p>21 want to make sure that she's in the</p> <p>22 room by herself and that there is</p> <p>23 nobody --</p> <p>24 MR. MENKEN: Sure.</p> <p>25 MR. SELLS: -- involved in this</p> | <p style="text-align: right;">Page 348</p> <p>1 MARJORIE PHILLIPS</p> <p>2 "Answer: The divider is not</p> <p>3 between Barton and myself.</p> <p>4 "Question: Could you describe</p> <p>5 it for the record so I am clear?</p> <p>6 "Answer: The partition is</p> <p>7 behind me. And I can see Marilyn,</p> <p>8 there is no partition between Marilyn</p> <p>9 and I.</p> <p>10 "Question: So if you're sitting</p> <p>11 at your desk, Ms. Phillips --")</p> <p>12 CONTINUED EXAMINATION</p> <p>13 BY MR. MENKEN:</p> <p>14 Q. So if you're sitting at your</p> <p>15 desk, Ms. Phillips, as of May 16, 2019,</p> <p>16 what part of Marilyn Barton's body could</p> <p>17 you see if you are just looking straight</p> <p>18 ahead?</p> <p>19 A. As of May 16th I was sitting at</p> <p>20 the middle desk and the partition is in</p> <p>21 front of me and there is no separation</p> <p>22 between, there is nothing separating us.</p> <p>23 I can see her. She can see me. There is</p> <p>24 nothing blocking our view between each</p> <p>25 other.</p> |
| <p style="text-align: right;">Page 347</p> <p>1 MARJORIE PHILLIPS</p> <p>2 proceeding that shouldn't be involved.</p> <p>3 So that's the reason for stopping,</p> <p>4 okay.</p> <p>5 MR. MENKEN: Eric, do you want</p> <p>6 to question Ms. Davis so we can get it</p> <p>7 on the record?</p> <p>8 MR. DRANOFF: Tell you what, let</p> <p>9 me call Ms. Davis and have a</p> <p>10 conversation with her to see where she</p> <p>11 is, that would be much more</p> <p>12 appropriate, the call coming from me.</p> <p>13 So if you want to wait for a couple of</p> <p>14 minutes.</p> <p>15 MR. SELLS: Can we take another</p> <p>16 10 minutes, is that all right?</p> <p>17 MR. DRANOFF: Sure.</p> <p>18 (Off the record.)</p> <p>19 MR. DRANOFF: Dawn, could you</p> <p>20 read back the last question, I am not</p> <p>21 sure if it was answered or not.</p> <p>22 (The record was read as follows:</p> <p>23 "Question: How high was the</p> <p>24 divider between your desk and</p> <p>25 Ms. Barton's desk on May 16th, 2019?</p>       | <p style="text-align: right;">Page 349</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. In feet, how far away were you</p> <p>3 sitting from her on May 15, 2019, if</p> <p>4 you're both at your desks?</p> <p>5 A. On May 15th, if we're both at</p> <p>6 our desks, 10 feet.</p> <p>7 Q. And how far away is Umilta?</p> <p>8 A. From Marilyn and I?</p> <p>9 Q. Yes.</p> <p>10 A. Umilta is about four feet from</p> <p>11 me, three feet from me, four feet from</p> <p>12 me. And she's about the same distance</p> <p>13 from Marilyn, but there is a wall between</p> <p>14 Marilyn and Umilta, so they cannot see</p> <p>15 each other.</p> <p>16 Q. And how high is that wall?</p> <p>17 A. It's an eight-foot wall. It's</p> <p>18 a full --</p> <p>19 Q. Okay. Okay. So it's not a</p> <p>20 partition, it's a wall, sorry.</p> <p>21 A. No, a wall.</p> <p>22 Q. I understand. And where was</p> <p>23 Dean Davis's work space during that time?</p> <p>24 A. To the right. She has -- she's</p> <p>25 the only one who has an office and it's</p>               |

17 (Pages 346 - 349)

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| <p style="text-align: right;">Page 350</p> <p>1 MARJORIE PHILLIPS</p> <p>2 to the right of Marilyn Barton's face.</p> <p>3 Q. And you and Marilyn both had</p> <p>4 desktop computers as of May 16th, 2019?</p> <p>5 A. Yes.</p> <p>6 Q. And you both had FIT e-mail</p> <p>7 addresses?</p> <p>8 A. Yes.</p> <p>9 Q. And you both had telephones</p> <p>10 there?</p> <p>11 A. Yes.</p> <p>12 Q. Now, when you made that first</p> <p>13 complaint on May 16th, 2019 to FIT</p> <p>14 Affirmative Action or the union by</p> <p>15 e-mail, you did that from that desk at</p> <p>16 E315, correct?</p> <p>17 A. Yes.</p> <p>18 Q. And how long after Ms. Barton</p> <p>19 was in your face did you make that first</p> <p>20 complaint by e-mail?</p> <p>21 A. After she left the office.</p> <p>22 Q. And how much time had elapsed</p> <p>23 from the time she got in your face until</p> <p>24 she left the office?</p> <p>25 A. I don't know. So you're asking</p>  | <p style="text-align: right;">Page 352</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. It's fair.</p> <p>3 Q. And after you made that first</p> <p>4 complaint, who did you next complain to?</p> <p>5 A. Public Safety. Well,</p> <p>6 Affirmative Action and the union, which I</p> <p>7 already said.</p> <p>8 Q. Okay.</p> <p>9 A. And then Public Safety.</p> <p>10 Q. Public Safety. And just so</p> <p>11 we're clear, you're not sure if it was</p> <p>12 Affirmative Action first or the union</p> <p>13 first; it was one or the other, correct?</p> <p>14 A. Correct.</p> <p>15 Q. And you complained to both the</p> <p>16 Affirmative Action Office at FIT and the</p> <p>17 union both by e-mail, correct?</p> <p>18 A. Correct.</p> <p>19 Q. And were those -- was it in one</p> <p>20 e-mail or separate e-mails?</p> <p>21 A. I think it was one e-mail.</p> <p>22 Q. And then you complained to</p> <p>23 Public Safety. And did you do that by</p> <p>24 e-mail as well?</p> <p>25 A. No.</p>   |
| <p style="text-align: right;">Page 351</p> <p>1 MARJORIE PHILLIPS</p> <p>2 me for the timing of the incident from</p> <p>3 the time it started until the time that</p> <p>4 it ended? I do not know.</p> <p>5 MR. SELLS: Actually, Bruce, you</p> <p>6 keep using the phrase "in your face."</p> <p>7 What does that mean? You heard</p> <p>8 Ms. Phillips testify yesterday about</p> <p>9 the event. And you're trying to like</p> <p>10 minimize it to in your face. What</p> <p>11 does it mean? What does that mean?</p> <p>12 Can you clarify?</p> <p>13 Q. Ms. Phillips, if there is a</p> <p>14 question that I ask you that you don't</p> <p>15 understand, please make sure to ask me to</p> <p>16 rephrase it, okay?</p> <p>17 A. Yes, I will.</p> <p>18 Q. Thank you.</p> <p>19 Ms. Phillips, is it fair to say</p> <p>20 that the incident with Ms. Barton took</p> <p>21 place in the morning of May 16th, 2019?</p> <p>22 A. Yes.</p> <p>23 Q. Is it fair to say that it took</p> <p>24 place between 10:30 and 11:00 in the</p> <p>25 morning?</p> | <p style="text-align: right;">Page 353</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. How did you make that</p> <p>3 complaint?</p> <p>4 A. I went over to Public Safety.</p> <p>5 I walked over there.</p> <p>6 Q. And where is that located --</p> <p>7 well, describe how you got there from</p> <p>8 E315, please?</p> <p>9 A. I walked over to the next</p> <p>10 building over, which is in -- you don't</p> <p>11 have to go outside. You can go from one</p> <p>12 building to another, staying inside. And</p> <p>13 they are in the next building over. They</p> <p>14 are in the D building on the 4th floor.</p> <p>15 So I walked. Took the elevator upstairs.</p> <p>16 Q. And you made that trip to</p> <p>17 Public Safety by yourself, correct?</p> <p>18 A. Yes, I did.</p> <p>19 Q. And how long -- well, do you</p> <p>20 recall who you complained to at Public</p> <p>21 Safety, if anybody?</p> <p>22 A. The name of the person, no, I</p> <p>23 do not.</p> <p>24 Q. So you complained verbally to</p> <p>25 an FIT Public Safety employee?</p> |

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| <p style="text-align: right;">Page 354</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes, I did.</p> <p>3 Q. And you explained what happened</p> <p>4 to you, correct?</p> <p>5 A. Correct.</p> <p>6 Q. Did the Public Safety person</p> <p>7 who listened to your complaint take what</p> <p>8 you said down, either on a computer or in</p> <p>9 writing?</p> <p>10 A. Yes.</p> <p>11 Q. And how long were you at Public</p> <p>12 Safety for?</p> <p>13 A. 15 minutes, maybe.</p> <p>14 Q. And from there, did you go back</p> <p>15 to E315?</p> <p>16 A. I don't recall.</p> <p>17 Q. At some point in time that day,</p> <p>18 did you go back to E315?</p> <p>19 A. Yes, I did.</p> <p>20 Q. And then what did you do when</p> <p>21 you returned back to E315?</p> <p>22 A. I was in shock. I just sat</p> <p>23 there in shock.</p> <p>24 Q. And you just sat there sitting</p> <p>25 in your office cubicle?</p> | <p style="text-align: right;">Page 356</p> <p>1 MARJORIE PHILLIPS</p> <p>2 regularly go out for lunch when you</p> <p>3 worked at FIT?</p> <p>4 A. No.</p> <p>5 Q. You ever go out to lunch with</p> <p>6 Marilyn Barton?</p> <p>7 A. No.</p> <p>8 Q. How about Mary Davis?</p> <p>9 A. No.</p> <p>10 Q. After making the complaint to</p> <p>11 Public Safety, you then made a complaint</p> <p>12 to human resources?</p> <p>13 A. Yes.</p> <p>14 Q. I am sorry?</p> <p>15 A. I attempted to.</p> <p>16 Q. And was that also May 16th,</p> <p>17 2019?</p> <p>18 A. Yes.</p> <p>19 Q. Fair to say that was the fourth</p> <p>20 complaint you made that day, after</p> <p>21 Affirmative Action and/or the union and</p> <p>22 then Public Safety, you then</p> <p>23 complained -- you then attempted to make</p> <p>24 a complaint to HR?</p> <p>25 A. Yes.</p>  |
| <p style="text-align: right;">Page 355</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. And when you were sitting there</p> <p>4 in shock, do you recall what time it was?</p> <p>5 A. No, I do not.</p> <p>6 Q. Was it before lunchtime or</p> <p>7 after lunchtime?</p> <p>8 A. I don't know.</p> <p>9 Q. Did you eat lunch that day?</p> <p>10 A. I did not.</p> <p>11 Q. What did you typically have</p> <p>12 your lunch prior to May 16th, 2019, when</p> <p>13 you were working at FIT?</p> <p>14 A. There is nothing specific that</p> <p>15 I have all the time. I can't say what I</p> <p>16 have.</p> <p>17 Q. Well, more precisely, do you</p> <p>18 bring your own lunch from home?</p> <p>19 A. No.</p> <p>20 Q. Do you go out for lunch?</p> <p>21 A. No.</p> <p>22 Q. Do you regularly go out for</p> <p>23 lunch?</p> <p>24 A. No.</p> <p>25 Q. Before May 16th, 2019, did you</p>          | <p style="text-align: right;">Page 357</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. And how did you attempt to make</p> <p>3 that complaint to HR?</p> <p>4 A. I walked over to HR.</p> <p>5 Q. And can you describe the trip</p> <p>6 you took from E315 to HR?</p> <p>7 A. I walked -- I was going home.</p> <p>8 I left because I didn't want to be in</p> <p>9 that space with her anymore, so I left</p> <p>10 for the day. And the subway is, you have</p> <p>11 to pass the subway in order to get to the</p> <p>12 building where HR is. And I decided that</p> <p>13 I was going to HR instead of getting on</p> <p>14 the subway.</p> <p>15 So I went to 28th Street and</p> <p>16 Seventh Avenue and didn't get on the</p> <p>17 subway, didn't go downstairs to the</p> <p>18 subway. I decided that I was going to go</p> <p>19 to HR and tell them what had happened.</p> <p>20 And that's what I did.</p> <p>21 Q. What time is that when you went</p> <p>22 to HR to tell them what happened?</p> <p>23 A. Around 4:30, maybe.</p> <p>24 Q. Okay. And did you speak to</p> <p>25 anyone from HR?</p> |



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| <p style="text-align: right;">Page 358</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I did.</p> <p>3 Q. And who did you speak to?</p> <p>4 A. I spoke to a receptionist at</p> <p>5 the front desk.</p> <p>6 Q. Do you recall her name?</p> <p>7 A. I do not.</p> <p>8 Q. And was she writing or taking</p> <p>9 your information down on a computer?</p> <p>10 A. No. I went there to HR and</p> <p>11 asked for Natacha, who was the generalist</p> <p>12 for the School of Graduate Studies. So I</p> <p>13 asked for Natacha. And I was asked to</p> <p>14 wait. So I sat in the lobby waiting for</p> <p>15 Natacha.</p> <p>16 Q. And then what happened with HR?</p> <p>17 A. I waited and waited for</p> <p>18 approximately a half an hour with the</p> <p>19 receptionist going back and forth saying,</p> <p>20 you know, "She'll be out, she'll be out,</p> <p>21 she'll be out." And around 5:00 -- I</p> <p>22 know it was around 5:00 because the</p> <p>23 reception was putting her coat on --</p> <p>24 around 5:00, Natacha came out and I had</p> <p>25 been sitting there for about a half an</p> | <p style="text-align: right;">Page 360</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Marilyn Barton leaves the office, right?</p> <p>3 A. Right.</p> <p>4 Q. From that time after she left</p> <p>5 the office until the time you left the HR</p> <p>6 office to go home, did you see Dean</p> <p>7 Davis?</p> <p>8 A. Yes.</p> <p>9 Q. But you didn't see Marilyn</p> <p>10 Barton, correct?</p> <p>11 A. I did see Marilyn Barton,</p> <p>12 because she came back.</p> <p>13 Q. And how long after the incident</p> <p>14 was it that she came back?</p> <p>15 A. A couple of hours, maybe. I</p> <p>16 thought she was gone.</p> <p>17 Q. And what, if anything, did she</p> <p>18 do when she returned to E315?</p> <p>19 A. She walked right -- she came</p> <p>20 back with Mary. Mary came in and Marilyn</p> <p>21 was right behind her, and they went into</p> <p>22 Mary's office.</p> <p>23 Q. Did Marilyn talk to you at any</p> <p>24 point at that time?</p> <p>25 A. No, she followed Mary.</p> |
| <p style="text-align: right;">Page 359</p> <p>1 MARJORIE PHILLIPS</p> <p>2 hour. And Natacha said she couldn't talk</p> <p>3 to me. She asked me if I could call her</p> <p>4 and make an appointment. So I never</p> <p>5 spoke with her.</p> <p>6 Q. And did that upset you?</p> <p>7 A. Yes, it did.</p> <p>8 Q. And after that, you went home?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Ms. Phillips, at any</p> <p>11 time after the incident on May 16th,</p> <p>12 2019, until you went home after leaving</p> <p>13 FIT's HR office, did you see Marilyn</p> <p>14 Barton?</p> <p>15 A. That day on May 16th?</p> <p>16 Q. Yes.</p> <p>17 A. No, I did not.</p> <p>18 Q. Who, if anyone, did you see</p> <p>19 during that time period after Marilyn</p> <p>20 Barton left the office?</p> <p>21 A. I need clarification.</p> <p>22 Q. Sure.</p> <p>23 A. What specific time are we</p> <p>24 talking about?</p> <p>25 Q. Sure. So the incident occurs.</p>   | <p style="text-align: right;">Page 361</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Did she look at you at any</p> <p>3 point during that time?</p> <p>4 A. I don't recall.</p> <p>5 Q. At that time, when you saw Dean</p> <p>6 Davis and Ms. Barton following Dean Davis</p> <p>7 into Dean Davis's office, were you just</p> <p>8 sitting at your desk?</p> <p>9 A. Yes.</p> <p>10 Q. By yourself or with other</p> <p>11 people?</p> <p>12 A. Umilta was in the office.</p> <p>13 Q. And were you talking to Umilta</p> <p>14 at that time?</p> <p>15 A. Not really, no.</p> <p>16 Q. And did you see -- withdrawn.</p> <p>17 Ms. Phillips, from 11:00 in the</p> <p>18 morning on May 16th, 2019 until 4:30 in</p> <p>19 the afternoon on May 16th, 2019, did you</p> <p>20 call your son Javon?</p> <p>21 A. I don't think so. I don't</p> <p>22 believe so.</p> <p>23 Q. Did you call your sister Gail</p> <p>24 during that same time period?</p> <p>25 A. Gail, I don't, I don't</p>               |

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| <p style="text-align: right;">Page 362</p> <p>1 MARJORIE PHILLIPS</p> <p>2 remember.</p> <p>3 Q. Have you ever heard Marilyn</p> <p>4 Barton talk about guns or knives?</p> <p>5 A. No, I have not.</p> <p>6 Q. I am assuming you never saw her</p> <p>7 with a gun or a knife, correct?</p> <p>8 A. No, I have not.</p> <p>9 Q. Have you ever seen her</p> <p>10 physically punch anyone else?</p> <p>11 A. No, I have not.</p> <p>12 Q. Ms. Phillips, do you believe</p> <p>13 that Anton Baptiste is a truthful person?</p> <p>14 A. I can't say with any certainty.</p> <p>15 Q. How long have you known him</p> <p>16 for?</p> <p>17 A. About eight years.</p> <p>18 Q. Have you ever caught him in a</p> <p>19 lie?</p> <p>20 A. I can't say.</p> <p>21 Q. How about Henry Wallace, do you</p> <p>22 think he tells the truth?</p> <p>23 A. I don't know him well enough to</p> <p>24 answer that question.</p> <p>25 Q. Prior to May 16th, 2019,</p> | <p style="text-align: right;">Page 364</p> <p>1 MARJORIE PHILLIPS</p> <p>2 THE REPORTER: 6 hours and 50</p> <p>3 minutes.</p> <p>4 MR. SELLS: You have 10 minutes.</p> <p>5 MR. MENKEN: Derek, we are three</p> <p>6 lawyers. Your client has brought</p> <p>7 substantial allegations, and if you</p> <p>8 insist on cutting us off at seven</p> <p>9 hours, that's fine, I will make an</p> <p>10 application to the Court. I would</p> <p>11 say --</p> <p>12 MR. SELLS: Bruce, you haven't</p> <p>13 said how much more, that's why I asked</p> <p>14 the question.</p> <p>15 MR. MENKEN: So Derek, don't</p> <p>16 interrupt. I respect you, please</p> <p>17 respect me. If I can finish in one</p> <p>18 hour, would that be an acceptable</p> <p>19 compromise?</p> <p>20 MR. SELLS: I don't know.</p> <p>21 MR. MENKEN: Do you want to</p> <p>22 speak to your client about that?</p> <p>23 MR. SELLS: I am just saying,</p> <p>24 Bruce, because you're asking a lot of</p> <p>25 questions that have no meaning and no</p>  |
| <p style="text-align: right;">Page 363</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Ms. Phillips, did Ms. Barton ever accuse</p> <p>3 you of bullying her?</p> <p>4 A. Not to my knowledge.</p> <p>5 Q. Did she ever accuse you of</p> <p>6 talking aggressively to her?</p> <p>7 A. Maybe she did. I don't recall.</p> <p>8 Q. Did she ever complain to you</p> <p>9 that you proselytize?</p> <p>10 A. No.</p> <p>11 Q. Ms. Phillips, are you taller or</p> <p>12 shorter than Ms. Barton?</p> <p>13 A. Shorter.</p> <p>14 Q. I hate to ask this question,</p> <p>15 but do you think you're heavier or</p> <p>16 lighter than Ms. Barton?</p> <p>17 A. Lighter.</p> <p>18 Q. You're lighter than Ms. Barton?</p> <p>19 A. Yes.</p> <p>20 Q. Okay?</p> <p>21 MR. SELLS: Bruce, can you tell</p> <p>22 us how much more you think you have?</p> <p>23 MR. MENKEN: I can't say, sorry.</p> <p>24 MR. SELLS: Dawn, can you tell</p> <p>25 us what the count is?</p>   | <p style="text-align: right;">Page 365</p> <p>1 MARJORIE PHILLIPS</p> <p>2 purpose. If you tell me what the</p> <p>3 areas are, then maybe I will give it</p> <p>4 to you, maybe I won't. If you're</p> <p>5 going to keep asking about what subway</p> <p>6 routes she takes or if you're going to</p> <p>7 go roundabout on things that have</p> <p>8 absolutely nothing to do with what my</p> <p>9 client has made complaints about, then</p> <p>10 absolutely I am going to cut you off.</p> <p>11 Where she lives and what train she</p> <p>12 takes to work and whether she has a</p> <p>13 car and whether she drives has nothing</p> <p>14 to do with this case. So I am not</p> <p>15 going to let you keep going on for</p> <p>16 ever ad nauseam, all right, Bruce,</p> <p>17 that's what I am trying to say to you.</p> <p>18 When I ask you how much more you</p> <p>19 have and you tell me you don't have</p> <p>20 any more, I'm skeptical. Maybe you'll</p> <p>21 ask her what generally is the color of</p> <p>22 the sky and when you walk to work,</p> <p>23 maybe are there clouds in the sky or</p> <p>24 not, because it has nothing to do with</p> <p>25 what we are talking about here, Bruce.</p> |



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| <p style="text-align: right;">Page 366</p> <p>1 MARJORIE PHILLIPS</p> <p>2 So we'll let you go for the next 10</p> <p>3 minutes and see what you ask.</p> <p>4 MR. MENKEN: I appreciate your</p> <p>5 perspective, okay. But each lawyer's</p> <p>6 perspective is different on what's</p> <p>7 relevant and what's not relevant. I</p> <p>8 don't appreciate being put under a gun</p> <p>9 for a certain period of time. I</p> <p>10 proposed a compromise, and if you</p> <p>11 don't want to agree with the</p> <p>12 compromise to give me another hour,</p> <p>13 then we can call the Magistrate Judge</p> <p>14 Friedman now. That's fine. So you</p> <p>15 want to do it that way or do you want</p> <p>16 to give me an hour?</p> <p>17 MR. SELLS: Ask the next ten</p> <p>18 minutes and I will let you know.</p> <p>19 MR. MENKEN: I don't want to be</p> <p>20 scrutinized like that. That's</p> <p>21 inappropriate and it's not right.</p> <p>22 Q. Ms. Phillips --</p> <p>23 THE WITNESS: May I ask you a</p> <p>24 question? Can you read back the last</p> <p>25 question?</p> | <p style="text-align: right;">Page 368</p> <p>1 MARJORIE PHILLIPS</p> <p>2 many, many, many documents that's where I</p> <p>3 saw that, in one of these documents since</p> <p>4 the incident. There has been many</p> <p>5 documents that I have read. And that's</p> <p>6 where I saw that. It didn't come from</p> <p>7 her prior to the incident. I read it in</p> <p>8 the documents.</p> <p>9 Q. Ms. Phillips, are you aware</p> <p>10 that Ms. Barton had fractured her wrist</p> <p>11 in February of 2019?</p> <p>12 A. Vaguely. Vaguely.</p> <p>13 Q. And she wore a cast to work,</p> <p>14 correct?</p> <p>15 A. Vaguely.</p> <p>16 Q. Was she wearing a cast, a soft</p> <p>17 cast on May 16th, 2019?</p> <p>18 A. I don't recall.</p> <p>19 Q. She might have, correct?</p> <p>20 A. I don't recall.</p> <p>21 Q. Let me ask you this, because I</p> <p>22 want to be clear, how far away did</p> <p>23 Ms. Barton get to you, in your face when</p> <p>24 she was shouting the word "fuck" at you?</p> <p>25 A. Did you say how far?</p> |
| <p style="text-align: right;">Page 367</p> <p>1 MARJORIE PHILLIPS</p> <p>2 THE REPORTER: Sure.</p> <p>3 (The record was read as follows:</p> <p>4 "Question: Ms. Phillips, are</p> <p>5 you taller or shorter than Ms. Barton?</p> <p>6 "Answer: Shorter.</p> <p>7 "Question: I hate to ask this</p> <p>8 question, but do you think you're</p> <p>9 heavier or lighter than Ms. Barton?</p> <p>10 "Answer: Lighter.")</p> <p>11 THE WITNESS: Can you read back</p> <p>12 the question before that?</p> <p>13 (The record was read as follows:</p> <p>14 "Question: Did she ever</p> <p>15 complain to you that you proselytize?</p> <p>16 "Answer: No.")</p> <p>17 A. With regard, I would like to</p> <p>18 change my answer, one of my answers. May</p> <p>19 I do that? The question pertaining to</p> <p>20 had she ever told you before May 16th</p> <p>21 that you were aggressive, the answer is</p> <p>22 definitively no.</p> <p>23 Q. Ms. Phillips, why are you</p> <p>24 changing your answer now?</p> <p>25 A. Because I read in the many,</p>                                      | <p style="text-align: right;">Page 369</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Yes.</p> <p>3 A. Do you mean how close she was?</p> <p>4 Q. Yes.</p> <p>5 A. Like this close (indicating.)</p> <p>6 Q. Would you say six inches?</p> <p>7 A. Yeah.</p> <p>8 Q. And when she was six inches</p> <p>9 away from you, you were looking at her</p> <p>10 face, correct?</p> <p>11 A. Yes.</p> <p>12 Q. So you didn't know if there was</p> <p>13 something that she was holding in her</p> <p>14 hands, correct?</p> <p>15 A. No.</p> <p>16 Q. She could have been holding a</p> <p>17 cup of coffee, correct?</p> <p>18 A. Yes.</p> <p>19 Q. Or sugar packets, correct?</p> <p>20 A. Yes.</p> <p>21 Q. You can't say --</p> <p>22 A. I know for sure she was not</p> <p>23 holding a cup of coffee. I know that for</p> <p>24 sure.</p> <p>25 Q. You were looking at her face,</p>  |

22 (Pages 366 - 369)

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| <p style="text-align: right;">Page 370</p> <p>1 MARJORIE PHILLIPS</p> <p>2 correct?</p> <p>3 A. Yes. But she came to me from a</p> <p>4 distance. So if she had coffee in her</p> <p>5 hand, I would have seen that.</p> <p>6 Q. You don't know if she was</p> <p>7 holding anything in her hands at the time</p> <p>8 that she was six inches from your face,</p> <p>9 correct?</p> <p>10 A. Correct. Correct.</p> <p>11 Q. And you don't know if she had a</p> <p>12 soft cast on one of her wrists on May</p> <p>13 16th, 2019, when she was six inches away</p> <p>14 from you, correct?</p> <p>15 A. Correct.</p> <p>16 Q. Did you speak to Anton Baptiste</p> <p>17 at all on May 16th, 2019, after</p> <p>18 Ms. Barton left the office?</p> <p>19 A. Briefly.</p> <p>20 Q. And what did you say to him?</p> <p>21 A. I told him and Umilta, they</p> <p>22 were in the same office, I told them that</p> <p>23 I was walking over to Public Safety to</p> <p>24 complain about Marilyn, and Anton offered</p> <p>25 that he saw everything that went on. And</p> | <p style="text-align: right;">Page 372</p> <p>1 MARJORIE PHILLIPS</p> <p>2 that she put her hands on your chest?</p> <p>3 MR. SELLS: Objection.</p> <p>4 Objection. The record will speak for</p> <p>5 itself from yesterday.</p> <p>6 MR. MENKEN: Well, Ms. Phillips,</p> <p>7 I don't want to put words in your</p> <p>8 mouth.</p> <p>9 Q. Did Ms. Barton, at any point in</p> <p>10 time, put her hands on your chest?</p> <p>11 A. Yes.</p> <p>12 Q. And was that both hands or one</p> <p>13 or the other hand?</p> <p>14 A. One.</p> <p>15 Q. And which one was that?</p> <p>16 A. It was her finger.</p> <p>17 Q. So she put her finger -- for</p> <p>18 the record, you're indicating your</p> <p>19 pointer finger?</p> <p>20 A. Yes, like that.</p> <p>21 Q. So she put her pointer finger</p> <p>22 at your chest?</p> <p>23 A. Yes.</p> <p>24 Q. Now, when you say chest, it was</p> <p>25 above your breast line, correct?</p>   |
| <p style="text-align: right;">Page 371</p> <p>1 MARJORIE PHILLIPS</p> <p>2 he was in shock. And if it had been him,</p> <p>3 it would have ended differently. It</p> <p>4 would have been an entirely different</p> <p>5 situation if he was in my place.</p> <p>6 Q. Did you write that down</p> <p>7 somewhere, what he just said, what he</p> <p>8 testified to?</p> <p>9 A. No, I did not.</p> <p>10 Q. So Anton would be a witness to</p> <p>11 support your allegations in this case?</p> <p>12 MR. SELLS: Objection. It calls</p> <p>13 for speculation.</p> <p>14 Q. You can still answer it,</p> <p>15 Ms. Phillips. If you can't answer it,</p> <p>16 then you can't answer it. Can you answer</p> <p>17 the question, please?</p> <p>18 A. I cannot say. I don't know</p> <p>19 what he saw.</p> <p>20 Q. You were able to see</p> <p>21 Ms. Phillips when Ms. Barton, six inches</p> <p>22 from you, that she was foaming out of the</p> <p>23 mouth, correct?</p> <p>24 A. Correct.</p> <p>25 Q. And you testified yesterday</p>                            | <p style="text-align: right;">Page 373</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. Did you suffer any physical</p> <p>4 injuries as a result of that touching?</p> <p>5 A. No.</p> <p>6 Q. And for the record, you sort of</p> <p>7 prodded your finger back and forth. Is</p> <p>8 it your testimony that she touched you</p> <p>9 with that pointer finger on more than one</p> <p>10 occasion?</p> <p>11 A. No.</p> <p>12 Q. Just once?</p> <p>13 A. Yes.</p> <p>14 Q. And Ms. Phillips, from the time</p> <p>15 Ms. Barton got six inches away from your</p> <p>16 face and was foaming at the mouth, and</p> <p>17 used the word "fuck" to you, how much</p> <p>18 time transpired from that moment until</p> <p>19 she left that area and she was no longer</p> <p>20 six inches away from your face?</p> <p>21 A. I don't know how much time</p> <p>22 transpired.</p> <p>23 Q. Was it less than 20 seconds?</p> <p>24 A. No.</p> <p>25 Q. Was it more than five minutes?</p> |

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| <p style="text-align: right;">Page 374</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. So she was six inches away from</p> <p>4 you in your face for at least five</p> <p>5 minutes?</p> <p>6 A. I don't know.</p> <p>7 Q. Well, can you say with any</p> <p>8 certainty how much time --</p> <p>9 MR. SELLS: She's already</p> <p>10 answered, Bruce. She's already</p> <p>11 answered. She said she doesn't know.</p> <p>12 So you can ask was she there a year,</p> <p>13 you can say five years. Whatever time</p> <p>14 you say, she is going to say she</p> <p>15 doesn't know. So why don't we move</p> <p>16 on.</p> <p>17 MR. MENKEN: Let me remind you</p> <p>18 that what's good for the goose is good</p> <p>19 for the gander.</p> <p>20 MR. SELLS: You don't need to</p> <p>21 remind me. You don't need to remind</p> <p>22 me. And you don't need to threaten</p> <p>23 me.</p> <p>24 MR. MENKEN: You need to stop</p> <p>25 talking over people. You need to stop</p> | <p style="text-align: right;">Page 376</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. I don't know.</p> <p>3 MR. SELLS: She's already</p> <p>4 answered. She's already answered.</p> <p>5 Don't answer it, Marjorie.</p> <p>6 Q. Ms. Phillips, can you testify</p> <p>7 as to how long a period of time</p> <p>8 Ms. Barton was six inches away from you</p> <p>9 while foaming at the mouth and using the</p> <p>10 "fuck" word to you?</p> <p>11 MR. SELLS: She already answered</p> <p>12 it.</p> <p>13 MR. MENKEN: Can you please</p> <p>14 answer that question.</p> <p>15 MR. SELLS: Dawn, can you please</p> <p>16 repeat or read back the whole series</p> <p>17 of questions and answers relating to</p> <p>18 how much time this incident occurred.</p> <p>19 Bruce, why don't you listen, Bruce.</p> <p>20 MR. MENKEN: Thanks for the</p> <p>21 patronizing behavior. Come on, will</p> <p>22 you? What is going on?</p> <p>23 (The record was read as follows:</p> <p>24 "Question: And Ms. Phillips,</p> <p>25 from the time Ms. Barton got six</p> |
| <p style="text-align: right;">Page 375</p> <p>1 MARJORIE PHILLIPS</p> <p>2 talking over people. That's what you</p> <p>3 need to do.</p> <p>4 MR. SELLS: I don't know what it</p> <p>5 is that you had for breakfast this</p> <p>6 morning, but don't ever threaten me,</p> <p>7 my friend. Don't ever threaten me.</p> <p>8 MR. MENKEN: Don't talk over me,</p> <p>9 that's not right.</p> <p>10 MR. SELLS: So then don't say</p> <p>11 what's good for the goose is good for</p> <p>12 the gander. I don't like being</p> <p>13 threatened.</p> <p>14 MR. MENKEN: I am telling you</p> <p>15 when Ms. Barton is deposed I am going</p> <p>16 to interrupt just like you, because</p> <p>17 that's not right.</p> <p>18 MR. SELLS: I don't care what</p> <p>19 you do.</p> <p>20 MR. MENKEN: Good.</p> <p>21 MR. SELLS: But don't threaten</p> <p>22 me.</p> <p>23 Q. So Ms. Phillips, it was more</p> <p>24 than 20 seconds but less than five</p> <p>25 minutes, is that what you said?</p> | <p style="text-align: right;">Page 377</p> <p>1 MARJORIE PHILLIPS</p> <p>2 inches away from your face and was</p> <p>3 foaming at the mouth, and used the</p> <p>4 word "fuck" to you, how much time</p> <p>5 transpired from that moment until she</p> <p>6 left that area and she was no longer</p> <p>7 six inches away from your face:</p> <p>8 "Answer: I don't know how much</p> <p>9 time transpired.</p> <p>10 "Question: Was it less than 20</p> <p>11 seconds?</p> <p>12 "Answer: No.</p> <p>13 "Question: Was it more than</p> <p>14 five minutes?</p> <p>15 "Answer: Yes.</p> <p>16 "Question: So she was six</p> <p>17 inches away from you in your face for</p> <p>18 at least five minutes?</p> <p>19 "Answer: I don't know.</p> <p>20 "Question: Well, can you say</p> <p>21 with any certainty how much time --")</p> <p>22 Q. Ms. Phillips, do you know that</p> <p>23 Ms. Barton campaigned not to get</p> <p>24 President Trump elected?</p> <p>25 A. No.</p>  |

24 (Pages 374 - 377)

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| <p style="text-align: right;">Page 378</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Do you know that Ms. Barton has</p> <p>3 attended at least one Black Lives Matter</p> <p>4 public demonstrations?</p> <p>5 A. I didn't know that.</p> <p>6 Q. Did you know that?</p> <p>7 MR. SELLS: Objection. We're</p> <p>8 assuming facts not in evidence.</p> <p>9 MR. MENKEN: That's a trial</p> <p>10 objection. That's a trial objection.</p> <p>11 MR. SELLS: Why don't you</p> <p>12 rephrase the question.</p> <p>13 MR. MENKEN: That's a trial</p> <p>14 objection.</p> <p>15 MR. SELLS: Rephrase it.</p> <p>16 MR. MENKEN: I'm not going to</p> <p>17 rephrase it because she understands</p> <p>18 it.</p> <p>19 MR. SELLS: No.</p> <p>20 MR. MENKEN: Say objection to</p> <p>21 form. You protected the witness, now</p> <p>22 move on.</p> <p>23 MR. SELLS: You're trying to</p> <p>24 establish facts that are not in</p> <p>25 evidence.</p>  | <p style="text-align: right;">Page 380</p> <p>1 MARJORIE PHILLIPS</p> <p>2 dates.</p> <p>3 Q. Where did you go on vacation?</p> <p>4 A. Part of my vacation I went to</p> <p>5 Georgia, which is where my family is</p> <p>6 located.</p> <p>7 Q. And did you go to a family</p> <p>8 reunion?</p> <p>9 A. I did.</p> <p>10 Q. And where else did you go</p> <p>11 during that vacation?</p> <p>12 A. I don't believe I went anywhere</p> <p>13 else.</p> <p>14 Q. Did you talk to anyone about</p> <p>15 the incident on May 16th, 2019 while you</p> <p>16 were on vacation?</p> <p>17 A. I don't believe so.</p> <p>18 Q. Do you believe that -- is Dean</p> <p>19 Davis a racist?</p> <p>20 A. Yes.</p> <p>21 Q. Is Marilyn Barton a racist?</p> <p>22 A. Yes.</p> <p>23 Q. Is Brenda Cowan a racist?</p> <p>24 A. Yes.</p> <p>25 Q. Is Jonathan Kyle Farmer a</p> |
| <p style="text-align: right;">Page 379</p> <p>1 MARJORIE PHILLIPS</p> <p>2 MR. MENKEN: I don't.</p> <p>3 MR. SELLS: How do we know that</p> <p>4 that's true? Did you know, did you</p> <p>5 know. Like she did it. Like come on.</p> <p>6 Let's not do that.</p> <p>7 MR. MENKEN: If you can't answer</p> <p>8 the question, Ms. Phillips, feel free</p> <p>9 to not answer it, okay.</p> <p>10 Q. Ms. Phillips, did you ever see</p> <p>11 Ms. Barton act the way she acted with you</p> <p>12 on May 16th, 2019 to anybody else?</p> <p>13 A. No, I did not.</p> <p>14 Q. Never to a white person,</p> <p>15 correct?</p> <p>16 A. No, I did not.</p> <p>17 Q. And never to another black</p> <p>18 person, correct?</p> <p>19 A. No, I did not.</p> <p>20 Q. So Ms. Phillips, you took a</p> <p>21 vacation in the summer of 2019, correct?</p> <p>22 A. Yes.</p> <p>23 Q. And you took it from July 8 to</p> <p>24 August 11; is that correct?</p> <p>25 A. I don't remember the exact</p> | <p style="text-align: right;">Page 381</p> <p>1 MARJORIE PHILLIPS</p> <p>2 racist?</p> <p>3 A. Yes.</p> <p>4 Q. Is Lynne Weidner a racist?</p> <p>5 A. I do not know.</p> <p>6 Q. Is Pamela Elsworth a racist?</p> <p>7 A. Yes.</p> <p>8 Q. Cynthia Glass a racist?</p> <p>9 A. I do not know.</p> <p>10 Q. Natacha Unelus, is she a</p> <p>11 racist?</p> <p>12 A. I do not know.</p> <p>13 Q. And how about Deliwe Kekana, is</p> <p>14 she a racist?</p> <p>15 A. I do not know.</p> <p>16 Q. Did you ever say to Ms. Barton</p> <p>17 it would be nice if Jewish people would</p> <p>18 donate to charities besides their own</p> <p>19 causes?</p> <p>20 A. I do not recall saying that to</p> <p>21 her.</p> <p>22 Q. Did you ever say anything to</p> <p>23 Ms. Barton that was hostile to Jewish</p> <p>24 people?</p> <p>25 A. No, not to my knowledge.</p>   |

25 (Pages 378 - 381)

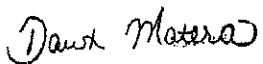
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| <p style="text-align: right;">Page 382</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Or tell Ms. Barton that you</p> <p>3 dislike Iranian people?</p> <p>4 A. No.</p> <p>5 Q. Did you ever accuse Lynne</p> <p>6 Weidner of racism?</p> <p>7 A. No.</p> <p>8 Q. Who is Lynne Weidner?</p> <p>9 A. If you're referring to Lynne in</p> <p>10 our department, who works for</p> <p>11 illustration?</p> <p>12 Q. Ms. Phillips, would you agree</p> <p>13 that Ms. Barton has never taken --</p> <p>14 withdrawn.</p> <p>15 Did you regularly take</p> <p>16 vacations, prior to 2019 and in 2019,</p> <p>17 during the summer that lasted five to six</p> <p>18 weeks?</p> <p>19 A. Yes.</p> <p>20 Q. And is it true that you were</p> <p>21 the only SGS employee who took those</p> <p>22 extended five to six-week vacations?</p> <p>23 A. No.</p> <p>24 Q. Did Ms. Barton ever take a five</p> <p>25 to six-week vacation?</p>   | <p style="text-align: right;">Page 384</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Q. Did you ever talk to anyone</p> <p>3 about Anton Baptiste only dating white</p> <p>4 women?</p> <p>5 A. Yes.</p> <p>6 Q. And who did you talk to about</p> <p>7 that?</p> <p>8 A. Umilta and Marisa.</p> <p>9 Q. And what did you say to Umilta</p> <p>10 and Marisa about that?</p> <p>11 A. Well, it wasn't one</p> <p>12 conversation with the two of them. In my</p> <p>13 conversation to Umilta, we were both</p> <p>14 aware that he dated several women at the</p> <p>15 college who were all white. We were both</p> <p>16 aware of it.</p> <p>17 And in my conversation with</p> <p>18 Marisa, it was one conversation and it</p> <p>19 wasn't a negative conversation. It was</p> <p>20 just information that I was talking to</p> <p>21 Marisa.</p> <p>22 Q. What is it that caused you to</p> <p>23 communicate that information to Marisa</p> <p>24 and Umilta?</p> <p>25 A. Again, you can't group them</p>   |
| <p style="text-align: right;">Page 383</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Yes.</p> <p>3 Q. When Ms. Barton was six inches</p> <p>4 away from you -- withdrawn.</p> <p>5 MR. MENKEN: Could you, Craig,</p> <p>6 put up number 8, please.</p> <p>7 (Exhibit 16, E-mail dated</p> <p>8 June 19, 2019 from Ms. Phillips to</p> <p>9 Kristina Johnson, Joyce Brown,</p> <p>10 Elizabeth Garvey, was so marked for</p> <p>11 identification, as of this date.)</p> <p>12 MR. JONES: Loading now. We're</p> <p>13 continuing with yesterday's numbering,</p> <p>14 so this will be Exhibit 16.</p> <p>15 MR. MENKEN: That's great.</p> <p>16 MR. JONES: Exhibit 16 has been</p> <p>17 introduced, would you like me to pull</p> <p>18 it up on the screen?</p> <p>19 MR. MENKEN: Please. I would</p> <p>20 like to ask Ms. Phillips a question or</p> <p>21 two first that I just remembered.</p> <p>22 Q. Ms. Phillips, did you ever</p> <p>23 scold Anton Baptiste for not dating black</p> <p>24 women?</p> <p>25 A. No, I did not.</p> | <p style="text-align: right;">Page 385</p> <p>1 MARJORIE PHILLIPS</p> <p>2 both together because they are two</p> <p>3 separate conversations.</p> <p>4 So with regards to Marisa, it</p> <p>5 was one conversation. And Marisa was a</p> <p>6 relatively new person, you know, a few</p> <p>7 months at the job. And Anton is a very</p> <p>8 handsome young man. And I don't believe</p> <p>9 I knew if Marisa was married yet. I</p> <p>10 don't think I knew if she was married</p> <p>11 yet. And, you know, kind of like being a</p> <p>12 matchmaker, in a way. It was like a</p> <p>13 matchmaker conversation.</p> <p>14 Q. Were you -- were you offended</p> <p>15 that Anton Baptiste was dating a white</p> <p>16 woman?</p> <p>17 A. No.</p> <p>18 Q. Ms. Phillips, I direct your</p> <p>19 attention to Barton Exhibit 8, which is</p> <p>20 now identified as Exhibit 16 on the</p> <p>21 bottom right of the document?</p> <p>22 A. Yes.</p> <p>23 Q. Okay. Can you confirm that</p> <p>24 it's a June 19, 2019 e-mail that you sent</p> <p>25 to Kristina Johnson, Joyce Brown,</p> |

26 (Pages 382 - 385)



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| <p style="text-align: right;">Page 386</p> <p>1 MARJORIE PHILLIPS</p> <p>2 Elizabeth Garvey and bcc'd someone named</p> <p>3 Boyer at Abyssinian Church?</p> <p>4 A. Yes.</p> <p>5 Q. Who is Boyer?</p> <p>6 A. My pastor.</p> <p>7 Q. And what's that person's first</p> <p>8 name?</p> <p>9 A. Calvin Otis Butts.</p> <p>10 Q. And you referenced him in the</p> <p>11 seventh paragraph of the Exhibit 16,</p> <p>12 correct?</p> <p>13 A. Yes.</p> <p>14 Q. Why did you refer to him in</p> <p>15 this document?</p> <p>16 A. Because he is, was the</p> <p>17 president of a SUNY university as well.</p> <p>18 And I have been going to this church for</p> <p>19 well over 30 years. And he's been the</p> <p>20 president of that college for well over</p> <p>21 20 years. And has always spoken very</p> <p>22 highly about the SUNY universities and</p> <p>23 have always proudly and highly, from the</p> <p>24 pulpit -- not to me, from the pulpit,</p> <p>25 about the SUNY universities, and so that</p>                                 | <p style="text-align: right;">Page 388</p> <p>1 MARJORIE PHILLIPS</p> <p>2 A. Correct.</p> <p>3 Q. So while you were sitting, she</p> <p>4 was able to -- well, let me clarify this.</p> <p>5 Here you say she put her hands</p> <p>6 on your chest, but just earlier you just</p> <p>7 testified that she pointed with her</p> <p>8 pointer finger in your chest?</p> <p>9 A. That's her hand, right.</p> <p>10 Q. But which is more precise?</p> <p>11 A. Her finger.</p> <p>12 Q. And it was just one finger, not</p> <p>13 both of her fingers with two hands?</p> <p>14 A. It was her finger.</p> <p>15 Q. And with that finger it's your</p> <p>16 testimony that she pushed you?</p> <p>17 A. Yes.</p> <p>18 Q. Now, you were sitting at the</p> <p>19 desk at the time, correct?</p> <p>20 A. Yes.</p> <p>21 Q. Did you, at any point in time,</p> <p>22 try to block Ms. Barton from getting in</p> <p>23 your space?</p> <p>24 A. I stood up -- as soon as she</p> <p>25 put her finger as to push me -- when she</p>   |
| <p style="text-align: right;">Page 387</p> <p>1 MARJORIE PHILLIPS</p> <p>2 was -- that was my understanding of how</p> <p>3 he felt about the SUNY colleges from the</p> <p>4 way that he spoke about it from the</p> <p>5 pulpit.</p> <p>6 Q. Did you reference him in this</p> <p>7 letter to try to influence Ms. Johnson to</p> <p>8 do something in response to your</p> <p>9 complaint?</p> <p>10 A. No.</p> <p>11 Q. And who is Kristina Johnson?</p> <p>12 A. Kristina was the chancellor of</p> <p>13 the SUNY universities, state</p> <p>14 universities, state universities.</p> <p>15 Q. Do you know if she's white or</p> <p>16 black?</p> <p>17 A. She's white.</p> <p>18 Q. So going to the second</p> <p>19 paragraph of this letter, Ms. Phillips,</p> <p>20 the last sentence, the few sentences you</p> <p>21 write: "While I was still sitting on my</p> <p>22 desk she put her hands on my chest and</p> <p>23 pushed me. I stood up and tried to move</p> <p>24 away from her for my safety."</p> <p>25 And that's true, right?</p> | <p style="text-align: right;">Page 389</p> <p>1 MARJORIE PHILLIPS</p> <p>2 put her hands on me, let me put it this</p> <p>3 way, when she put her hands on me and</p> <p>4 pushed me, it's one thing for her to be</p> <p>5 away from me. When she put her hands on</p> <p>6 me, then I stood up in self-defense. I</p> <p>7 stood up in self-defense. I didn't know</p> <p>8 what she was going to do next. I became</p> <p>9 more fearful.</p> <p>10 Q. So Ms. Phillips, you before</p> <p>11 said that she pointed once into your</p> <p>12 chest above your breast line and now</p> <p>13 you're saying she pushed you with her</p> <p>14 hands. Could you clarify that, please?</p> <p>15 A. I didn't say that.</p> <p>16 MR. SELLS: Objection.</p> <p>17 Objection, Bruce, that's not what she</p> <p>18 said.</p> <p>19 MR. MENKEN: I want to clarify.</p> <p>20 Can you clarify?</p> <p>21 MR. SELLS: You don't need to</p> <p>22 clarify it. Bruce, Bruce.</p> <p>23 MR. MENKEN: I need to clarify</p> <p>24 it.</p> <p>25 MR. SELLS: Tell you what, Dawn,</p> |

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| <p style="text-align: right;">Page 390</p> <p>1 MARJORIE PHILLIPS</p> <p>2 what time are we at now?</p> <p>3 Q. Ms. Phillips, can you answer</p> <p>4 the question?</p> <p>5 MR. SELLS: No, don't say</p> <p>6 another word, what time are we at,</p> <p>7 Dawn?</p> <p>8 THE REPORTER: We are at seven</p> <p>9 hours 15 minutes.</p> <p>10 MR. SELLS: We're done.</p> <p>11 MR. MENKEN: Ms. Matera, please</p> <p>12 note for the record that plaintiff's</p> <p>13 counsel at 12:29, just all of a sudden</p> <p>14 said we're done and got off of the</p> <p>15 deposition. Okay?</p> <p>16 THE REPORTER: Yes, of course.</p> <p>17 (Off the record.)</p> <p>18 (Time noted: 12:29 p.m.)</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 392</p> <p>1</p> <p>2 CERTIFICATION</p> <p>3</p> <p>4 I, DAWN MATERA, a Notary Public for</p> <p>5 and within the State of New York, do</p> <p>6 hereby certify:</p> <p>7 That the witness whose testimony as</p> <p>8 herein set forth, was duly sworn by me;</p> <p>9 and that the within transcript is a true</p> <p>10 record of the testimony given by said</p> <p>11 witness.</p> <p>12 I further certify that I am not</p> <p>13 related to any of the parties to this</p> <p>14 action by blood or marriage, and that I</p> <p>15 am in no way interested in the outcome of</p> <p>16 this matter.</p> <p>17 IN WITNESS WHEREOF, I have hereunto</p> <p>18 set my hand this 13th day of September,</p> <p>19 2021.</p> <p>20</p> <p>21 </p> <p>22 _____</p> <p>23 DAWN MATERA</p> <p>24 * * *</p> <p>25</p> |
| <p style="text-align: right;">Page 391</p> <p>1</p> <p>2 ACKNOWLEDGMENT OF DEPONENT</p> <p>3</p> <p>4 I have read the foregoing</p> <p>5 transcript of my deposition and except</p> <p>6 for any corrections or changes noted on</p> <p>7 the errata sheet, I hereby subscribe to</p> <p>8 the transcript as an accurate record of</p> <p>9 the statements made by me.</p> <p>10</p> <p>11 _____</p> <p>12 MARJORIE PHILLIPS</p> <p>13</p> <p>14</p> <p>15 SUBSCRIBED AND SWORN before</p> <p>16 and to me this ____ day of _____,</p> <p>17 2021.</p> <p>18 _____</p> <p>19 NOTARY PUBLIC</p> <p>20</p> <p>21</p> <p>22 My Commission Expires:</p> <p>23</p> <p>24</p> <p>25</p>  | <p style="text-align: right;">Page 393</p> <p>1 INDEX</p> <p>2 Witness Page</p> <p>3 MARJORIE PHILLIPS 288</p> <p>4</p> <p>5 EXHIBITS</p> <p>6 Page</p> <p>7 Exhibit 16 E-mail dated June 19, 2019 383</p> <p>8 from Ms. Phillips to</p> <p>9 Kristina Johnson, Joyce</p> <p>10 Brown, Elizabeth Garvey</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">-000-</p>   |

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1  
2 ERRATA SHEET  
3 VERITEXT  
4 CASE NAME: Phillips v. FIT  
5 DATE OF DEPOSITION: September 10, 2021  
6 WITNESS'S NAME: Marjorie Phillips  
7 PAGE/LINE(s)/ CHANGE REASON  
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20  
21 MARJORIE PHILLIPS  
22 Subscribed and Sworn To  
23 Before Me This Day  
24 of \_\_\_\_\_, 2021.  
25 Notary Public  
My Commission Expires \_\_\_\_\_

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